

The Gazette of India

PUBLISHED BY AUTHORITY

No. 52] NEW DELHI, SATURDAY, DECEMBER 29, 1951

NOTICE

The undermentioned Gazettes of India Extraordinary were published during the week ending the 26th December 1951 :—

Issue No.	No. and Date	Issued by	Subject
214	S. R. O. 2008, dated the 17th December 1951.	Ministry of Law	Amendments made in the Representation of the People (Conduct of Elections and Election Petitions) Rules 1951.
215	S. R. O. 2009, dated the 18th December 1951.	Ditto.	Notification regarding Elections in certain State Constituencies
	S. R. O. 2010, dated the 18th December 1951.	Ditto.	Corrections made in the Notification No. F. 160/51-C-III, dated the 3rd December 1951 (S. R. O. 1920).
	S. R. O. 2011, dated the 18th December 1951.	Ditto.	Amendments made in S. R. O. 1785, dated the 17th December 1951.
216	S. R. O. 2012, dated the 19th December 1951.	Ministry of Finance	Cancellation of Notification No. S.R.O. 1122, dated the 24th July 1951.
	S. R. O. 2013, dated the 19th December 1951.	Ditto.	Amendments made in the Indian Companies Rules, 1941.
217	S. R. O. 2014, dated the 19th December 1951.	Ministry of Law	Amendments made in S. R. O. 1372, dated the 10th September 1951
	S. R. O. 2015, dated the 19th December 1951.	Ditto.	Amendments made in S. R. O. 1756, dated the 15th November 1951.
	S. R. O. 2016, dated the 19th December 1951.	Ditto.	Fixing 5th February 1952 as the date on which a poll shall be taken in the areas within the Narayanganj Assembly Constituency in the State of West Bengal.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of this Gazette.

PART II—Section 3**Statutory Rules and Orders issued by the Ministries of the Government of India (other than the Ministry of Defence) and Central Authorities (other than the Chief Commissioners).****MINISTRY OF HOME AFFAIRS***New Delhi, the 18th December 1951*

S.R.O. 2063.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950, (XXX of 1950), the Central Government hereby extends to the State of Delhi, the East Punjab Holdings (Consolidation, and Prevention of Fragmentations) Act, 1948 (East Punjab Act 2 of 1948), (hereinafter referred to as the Act) as in force in the State of Punjab at the date of this notification subject to the following modifications, namely:—

1. Throughout the Act references to the State of Punjab shall be construed as references to the State of Delhi and references to the State Government shall be construed as references to the Chief Commissioner.

2. In section 2 of the Act—

(a) In clause (j) after the figures "1887" the words and figures "or section 32 of the U.P. Land Revenue Act, 1901, as the case may be" shall be inserted.

(b) for clause (k) the following clause shall be substituted, namely—

(k) "words and expression used in this Act but not defined, have the meanings assigned to them or to their equivalents in the Punjab Land Revenue Act, 1887, or the U.P. Land Revenue Act, 1901, as the case may be."

3. In sub-section (2) of section 7 and sub-section (2) of section 16, for the words and figures "Punjab Tenancy Act, 1887" the words "Tenancy Act in force in the Estate or Mahal concerned" shall be substituted.

4. Clause (b) of section 18 shall be omitted.

5. In section 22 of the Act—

(a) in sub-section (1), for the words and figures "Punjab Land Revenue Act, 1887" the words and figures "Punjab Land Revenue Act, 1887, or the U.P. Land Revenue Act, 1901, as the case may be" shall be substituted.

(b) in sub-section (2), the words and figures "or section 48 of the U.P. Land Revenue Act, 1901, as the case may be" shall be added at the end.

6. In sub-section (2) of section 23, after the figures "1887" the words and figures "or the U.P. Land Revenue Act, 1901, as the case may be" shall be added.

7. In section 27, after the words "Punjab Tenancy Act, 1887 and before the words "the rights" the words and figures "or the U.P. Land Revenue Act, 1901, as the case may be" shall be inserted.

8. Section 31 shall be omitted.

9. In section 32, after the words and figures "the Punjab Land Revenue Act, 1887" the words and figures "or chapter VII of the U.P. Land Revenue Act, 1901, as the case may be" shall be inserted.

10. In clause (e) of sub-section (2) of section 46 the words "Sikh backward classes" shall be omitted.

11. Section 47 shall be omitted.

12. The text of the said Act as modified above is published as an annexure to the notification.

THE EAST PUNJAB HOLDINGS (CONSOLIDATION AND PREVENTION OF FRAGMENTATION) ACT, 1948**EAST PUNJAB ACT NO. L OF 1948**

An Act to provide for the compulsory consolidation of agricultural holdings and for preventing the fragmentation of agricultural holdings in the State of Punjab.

CHAPTER I—PRELIMINARY

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948.

(2) It extends to the whole of the State of Delhi.

(3) This section shall come into force at once and the remaining provisions of the Act shall come into force in such area and from such date as the Chief Commissioner may by notification appoint in this behalf, and different dates may be appointed for the coming into force of different provisions of the Act.

2. *Interpretation.*—In this Act, unless there is anything repugnant in the subject context—

(a) "Consolidation Officer" means an officer appointed as such under section 14 by the Chief Commissioner and includes any person authorised by the Chief Commissioner to perform all or any of the functions of the Consolidation Officer under this Act;

(b) "Consolidation of Holdings" means the amalgamation and the redistribution of all or any of the lands in an estate or subdivision of an estate so as to reduce the number of plots in the holdings;

(c) "fragment" means a plot of land of less extent than the appropriate standard area determined under this Act;

Provided that no plot of land shall be deemed to be a fragment by reason of any diminution in its area by diluvion;

(d) "land" means land which is not occupied as the site of any building in a town or village and is occupied or let for agricultural purposes or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land;

(e) "notified area" means any area notified as such under section 3.

(f) "owner" means in the case of unalienated land the lawful occupant and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land, owner means the superior holder;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Settlement Officer (Consolidation)" means an officer appointed as such under section 20 by the Chief Commissioner and includes any person authorised by the Chief Commissioner to perform all or any of the functions of the Settlement Officer (Consolidation) under this Act;

(i) "standard area" in respect of any class of land means the area which the Chief Commissioner may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular notified area, and includes a standard area revised under the said section;

(j) "subdivision" means a part of an estate recorded as a sub-division patti, taraf or pana in a record of rights prepared under section 31 of the Punjab Land Revenue Act, 1887 (XVII of 1887), or section 32 of the U. P. Land Revenue Act, 1901 as the case may be, provided it forms a compact block; and

(k) words and expressions used in this Act but not defined, have the meanings assigned to them or to their equivalent in the Punjab Land Revenue Act, 1887 (XVII of 1887) or the U.P. Land Revenue Act, 1901 as the case may be.

CHAPTER II—DETERMINATION OF STANDARD AREAS AND TREATMENT OF FRAGMENTS.

3. *Determination of notified area.*—The Chief Commissioner may, after such inquiry as it deems fit, specify any estate of sub-division of an estate as a notified area for the purposes of this Chapter of this Act

4. *Settlement of standard.*—(1) The Chief Commissioner may, after such inquiry as it deems fit, provisionally settle for any class of land in any notified area the minimum area that can be cultivated profitably as a separate plot.

(2) The Chief Commissioner shall by notification and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (1) and invite objections thereto.

5. *Determination and revision of standard areas.*—(1) The Chief Commissioner shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (2) of section 4 in the estate concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such notified area.

(2) The Chief Commissioner may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (1). Such revision shall be made in the manner laid down in section 4 and sub-section (1) of section 5.

(3) The Chief Commissioner shall, by notification and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (1) or revised under sub-section (2).

6. *Entry in the record of rights.*—(1) On notification of a standard area under sub-section, (3) of section 5 for a local area all fragments in the local area shall be entered as such in the record of rights

(2) Notice of every entry made under sub-section (1) shall be given in the prescribed manner.

7. *Transfer and lease of fragments.*—(1) No person shall transfer any fragment in respect of which a notice has been given under sub-section (2) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

(2) Notwithstanding anything contained in the Tenancy Act (XVI of 1887), in force in the Estate or Mahal concerned, no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment.

8. *Fragmentation prohibited*—No land in any notified area shall be transferred or partitioned so as to create a fragment.

9. *Penalty for transfer or partition contrary to provisions of Act.*—The transfer or partition of any land contrary to the provisions of this Act shall be void.

10. *Valuation of fragment.*—Any owner of a fragment who intends to sell it shall make an application in this behalf to the Collector for determination of its market price and the Collector shall, after hearing the applicant and the owners of the contiguous survey numbers or recognized sub-divisions of survey numbers determine the market price, and such determination shall be final and conclusive for the purposes of this Chapter.

11. *Transfer of fragment.*—The owner referred to in the preceding section shall in the first instance offer the fragment for sale to the owners of contiguous survey numbers or recognized sub-divisions of survey numbers, and in case of their refusal to purchase for the price as determined under the last preceding section, may transfer it to the State for the purpose of the State on payment by the State of such price as aforesaid to persons possessing interest therein as the Collector may determine, and thereupon the fragment shall vest absolutely in the State for the purpose of the State free from all encumbrances.

12. *Partition of estate assessed to payment of revenue to Crown or separation of share thereof.*—When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908 (V of 1908), for the partition of an undivided estate assessed to the payment of revenue to the State in any notified area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment.

13. *Chief Commissioner or local authority not to acquire land so as to leave fragment.*—(1) Notwithstanding anything contained in any law for the time being in force no land shall be acquired by the Chief Commissioner or any local authority or sold at any sale held under the orders of any court so as to leave a fragment.

(2) If any land acquired by the Chief Commissioner or any local authority is in excess of its requirements, it shall be offered for sale in the first instance to the owners of contiguous survey numbers or recognized sub-divisions of survey numbers at the price at which it was acquired under sub-section (1).

CHAPTER III—CONSOLIDATION OF HOLDINGS

14. *Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.*—(1) With the object of consolidating holdings in any estate or group of estates or any part thereof for the purpose of better cultivation of lands therein, the Chief Commissioner may of its own motion or on application made in this behalf declare by notification and by publication in the prescribed manner in the estate or estates concerned its intention to make a scheme for the consolidation of holdings in such estate or estates or part thereof as may be specified.

(2) On such publication in the estate concerned the Chief Commissioner may appoint a Consolidation Officer who shall after obtaining in the prescribed manner the advice of the landowners of the estate or estates concerned, prepare a scheme

for the consolidation of holdings in such estate or estates or part thereof as the case may be.

15. *Scheme to provide for compensation.*—The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding.

16. (1) The scheme prepared by the Consolidation Officer may provide for the distribution of land held under occupancy tenure between the tenants holding a right of occupancy and his landlord in such proportion as may be agreed upon between the parties.

(2) When the scheme is finally sanctioned under section 20 the land so allotted to the occupancy tenant and the landlord shall, notwithstanding anything to the contrary contained in the Tenancy Act in force in the Estate or Mahal concerned or in any other law for the time being in force, be held by each of them respectively in full right of ownership, and the right of occupancy in the land allotted to the landlord shall be deemed to be extinguished.

17. *Amalgamation of public road, etc., within scheme for consolidation of holdings.*—(1) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes with any holding in the scheme he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes, shall be extinguished or, as the case may be, transferred to a new road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes laid out in the scheme of consolidation.

(2) The declaration in sub-section (1) shall be published in the estate concerned in the prescribed manner along with the draft scheme referred to in section 19.

(3) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (1), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right:

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane, path, channel, drain, tank, pasture or other land reserved for common purposes, shall be entertained.

(4) The Consolidation Officer shall, after considering the objections if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Officer (Consolidation), together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such recompensation is payable. The decision of the Settlement Officer (Consolidation), on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall be final.

18. *Lands reserved for common purposes.*—Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct—

- (a) that any land specifically assigned for any common purpose shall cease to be so assigned and to assign any other land in its place;
- (b) that if in any area under consolidation no land is reserved for any common purpose including extension of the village abadi, or if the land so reserved is inadequate, to assign other land for such purpose.

19. *Publication of draft scheme.*—(1) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the estate or estates concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the scheme. The Consolidation Officer shall, after considering the objections, if any, received,

submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Officer (Consolidation).

(2) The Consolidation Officer shall also publish in the prescribed manner the scheme as amended by him.

20. *Confirmation of scheme.*—(1) The Chief Commissioner may by notification appoint one or more persons to be Settlement Officers (Consolidation) and, by like notification, specify the area in which each such officer shall have jurisdiction. The Consolidation Officers in the area under the jurisdiction of the Settlement Officer (Consolidation) shall be subordinate to him subject to any conditions which may be prescribed.

(2) If no objections are received to the draft scheme published under subsection (1) or within thirty days of its publication to the amended draft scheme published under subsection (2) of section 19, as the case may be, the Settlement Officer (Consolidation) shall confirm the scheme.

(3) If any objections are received to the amended draft scheme published under subsection (2) of section 19, the Settlement Officer (Consolidation) shall, after taking the objections into consideration, either confirm the scheme with or without modifications or refuse to confirm it.

(4) Upon the confirmation of the scheme under subsection (2) or (3), the scheme as confirmed shall be published in the prescribed manner of the estate or estates concerned.

21. *Repartition.*—(1) The Consolidation Officer shall after obtaining the advice of the landowners of the estate or estates concerned, carry out repartition in accordance with the scheme of consolidation of holdings confirmed under section 20, and the boundaries of the holdings as demarcated shall be shown on the shajra which shall be published in the prescribed manner in the estate or estates concerned.

(2) Any person aggrieved by the repartition may file a written objection within fifteen days of the publication before the Consolidation Officer who shall after hearing the objector pass such orders as he considers proper confirming or modifying the repartition.

(3) Any person aggrieved by the order of the Consolidation Officer under subsection (2) may within one month of that order file an appeal before the Settlement Officer (Consolidation) who shall after hearing the appellant pass such order as he considers proper.

(4) Any person aggrieved by the order of the Settlement Officer (Consolidation) under subsection (3) may within sixty days of that order appeal to the Chief Commissioner. The order of the Chief Commissioner on such appeal, and subject only to such order, the order of the Settlement Officer (Consolidation) under subsection (3) or, if the order of the Consolidation Officer under sub-section (2) was not appealed against, such order of the Consolidation Officer, shall be final and shall not be liable to be called in question in any court.

22. *Preparation of record of rights.*—(1) The Consolidation Officer shall cause to be prepared a new record of rights in accordance with the provision contained in Chapter IV of the Punjab Land Revenue Act, 1887 (XVII of 1887) or the U. P. Land Revenue Act, 1901 as the case may be in so far as these provisions may be applicable, for the area under consolidation, giving effect to the repartition as finally sanctioned under the preceding section.

(2) Such record of rights shall be deemed to have been prepared under section 32 of the Punjab Land Revenue Act, 1887 (XVII of 1887) or Section 48 of the U. P. Land Revenue Act, as the case may be.

23. *Right to possession of new holdings.*—(1) If all the owners and tenants affected by the scheme of consolidation or, as the case may be, repartition, as finally confirmed, agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(2) If all the owners and tenants as aforesaid do not agree to enter into possession under subsection (1) they shall be entitled to possession of the holdings and tenancies allotted to them from the commencement of the agricultural year next following the date of the publication of the scheme under subsection (4) of section 20, or, as the case may be, of the preparation of the new record of rights under subsection (1) of section 22, and the Consolidation Officer shall, if necessary,

put them in physical possession of the holding to which they are so entitled, including standing crops, if any, and for doing so may exercise the powers of a Revenue Officer under the Punjab Land Revenue Act, 1887 (XVII of 1887) or the U. P. Land Revenue Act, 1901 as the case may be.

(3) If there are standing crops on any holding of which possession has been given under subsection (2), the Consolidation Officer shall determine in the manner provided under this Act the compensation payable in respect of such crops by the person put in possession, who shall, within six months of the date of possession, pay such compensation to the person or persons from whom possession was transferred, and in case of default such compensation shall be recoverable from him as an arrear of land revenue.

(4) If any person from whom compensation is recoverable under the scheme fails within 15 days of the commencement of the agricultural year referred to in subsection (2) to deposit such compensation in the prescribed manner, it shall be recoverable from him as an arrear of land revenue, and in such case the amount realised after deducting the expense, shall be paid to any person having the interest in the holding.

24. *Coming into force of scheme.*—As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

25. *Rights of landowners and tenants after consolidation same as before.*—A landowner or a tenant shall subject to the provisions of section 16 have the same right in the land allotted to him in pursuance of the scheme of consolidation as he had in his original holding or tenancy as the case may be.

26. *Encumbrances of landowners and tenants.*—(1) If the holding of a landowner or the tenancy of a tenant brought under the scheme of consolidation is burdened with any lease, mortgage or other encumbrance, such lease, mortgage or other encumbrance shall be transferred and attached to the holding or tenancy allotted under the scheme or to such part of it as the Consolidation Officer subject to any rules that may be made under section 46, may have determined in preparing the scheme; and thereupon the lessee, mortgagee or other encumbrancer, as the case may be, shall cease to have any right in or against the land from which the lease, mortgage or other encumbrance has been transferred.

(2) If the holding or tenancy to which a lease, mortgage, or other encumbrance is transferred under subsection (1) is of less market value than the original holding from which it is transferred, the lessee, mortgagee or other encumbrancer, as the case may be, shall subject to the provisions of section 34 be entitled to the payment of such compensation by the owner of the holding, or as the case may be, the tenant as the Consolidation Officer may determine.

(3) Notwithstanding anything contained in section 23, the Consolidation Officer shall if necessary put any lessee or any mortgagee or other encumbrancer entitled to possession, in possession of the holding or tenancy or part of the holding or tenancy to which his lease, mortgage or other encumbrance has been transferred under subsection (1).

27. *Transfer of rights of landowners in holdings and of tenants in tenancies.*—Notwithstanding anything contained in the Punjab Land Revenue Act, 1887, and the Punjab Tenancy Act, 1887, or the U.P. Land Revenue Act, 1901 and Agra Tenancy Act, 1901 the rights and liabilities of landowners in their holdings and of tenants in their tenancies shall, for the purpose of giving effect to any scheme of consolidation affecting them, be transferable by exchange or otherwise and neither the landlord nor tenant nor any other person shall be entitled to object to or interfere with any transfer made for the said purpose.

28. *Cost of consolidation proceedings.*—(1) The cost of consolidation proceedings shall be assessed in the prescribed manner.

(2) The cost of consolidation proceedings shall be recovered from the persons whose holdings are affected by the scheme of consolidation.

29. *Recovery of compensation or costs or other sums payable under this Act.*—Compensation under section 15 or costs under section 28 or any other sums due payable under this Act shall be recoverable as an arrear of land revenue.

30. *Transfer of property during consolidation proceedings.*—After a notification under sub-section (1) of section 14 has issued and during the pendency of the consolidation proceedings no landowner or tenant having a right of occupancy upon whom the scheme will be binding shall have power without the sanction of the

Consolidation Officer to transfer or otherwise deal with any portion of his original holding or other tenancy so as to affect the rights of any other landowner or tenant having a right of occupancy therein under the scheme of consolidation.

32. Suspension of partition proceedings during currency of consolidation proceedings.—After a notification under sub-section (1) of section 14 has issued no proceedings under Chapter IX of the Punjab Land Revenue Act, 1887 or Chapter VII of the U.P. Land Revenue Act, 1901 as the case may be, in respect of any estate or a sub-division of an estate which will be affected by the scheme of consolidation shall be commenced, and such proceedings pending shall remain in abeyance during the pendency of the consolidation proceedings.

33. No instrument necessary to effect transfer.—Notwithstanding anything contained in any law for the time being in force—

(a) no instrument in writing shall be necessary in order to give effect to a transfer involved in carrying out any scheme of consolidation of holdings, and

(b) no instrument, if executed, shall require registration.

34. Apportionment of compensation or net value in case of dispute.—(1) The amount of compensation payable under this Act shall be assessed, so far as practicable, in accordance with the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894.

(2) Where there is a dispute in respect of the apportionment of—

(a) the amount of compensation determined under sub-section (2) of section 15, or sub-section (4) of section 17;

(b) the net value realised under sub-section (4) of section 23;

(c) the total amount of compensation determined under sub-section (2) of section 26, the Consolidation Officer shall refer the dispute to the decision of the Civil Court and deposit the amount of compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may be apply.

35. Application of Chapter II to consolidated holdings.—In any estate or group of estates or any part thereof where consolidation of holdings has been effected under this Chapter the Chief Commissioner shall, as soon as may be, take all necessary steps to apply the provisions of Chapter II.

36. Power to vary or revoke scheme.—A scheme for the consolidation of holdings continued under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

CHAPTER IV—OTHER POWERS OF CONSOLIDATION OFFICERS

37. Power of officers to enter upon land for purposes of survey and demarcation.—The Consolidation Officer and any person acting under his orders may, in the discharge of any duty under this Act, enter upon and survey land and erect survey marks thereon and demarcate the boundaries thereof and do all other acts necessary for the proper performance of that duty.

38. Penalty for destruction, injury or removal of survey marks.—(1) If any person wilfully destroys or injures or without lawful authority removes a survey mark lawfully erected, he may be ordered by a Consolidation Officer to pay such fine not exceeding fifty rupees for each mark so destroyed, injured or removed, as may, in the opinion of that officer be necessary to defray the expenses of restoring the same and of rewarding the person, if any, who gave information of the destruction, injury or removal.

(2) The imposition of a fine under this section shall not bar a prosecution under section 434 of the Indian Penal Code (XIV of 1860).

39. Report of destruction or removal or injury to survey mark.—Every village officer of an estate shall be legally bound to furnish a Consolidation Officer with information respecting the destruction or removal of, or any injury done to, any survey-mark lawfully erected in the estate.

40. Power of Consolidation Officer or Settlement Officer (Consolidation) to summon persons.—(1) A Consolidation Officer or a Settlement Officer (Consolidation) may summon any person whose attendance he considers necessary for the purpose of any business before him as a Consolidation Officer or a Settlement Officer (Consolidation).

(2) A person so summoned shall be bound to appear at the time and place mentioned in the summons in person or, if the summons so allows, by his recognised agent or a legal practitioner.

(3) The person attending in obedience to the summons shall be bound to state the truth upon any matter respecting which he is examined or make statements and to produce such documents and other things relating to any such matter as the Consolidation Officer or the Settlement Officer (Consolidation) may require.

CHAPTER V—GENERAL

41. *Appointment of officers and staff and delegation of powers.*—(1) The Chief Commissioner may for the administration of this Act, appoint such persons as it thinks fit, and may by notification delegate any of its powers or functions under this Act to any of its officers either by name or designation.

(2) A Consolidation Officer or a Settlement Officer (Consolidation) may, with the sanction of the Chief Commissioner, delegate any of its powers or functions under this Act to any person in the service of the Chief Commissioner.

42. *Power of Provincial Government to call for proceedings.*—The Chief Commissioner may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed without giving the parties interested notice to appear and opportunity to be heard.

43. *Appeal and revision.*—Except as provided in this Act no appeal or revision shall lie from any order passed under this Act.

44. *Jurisdiction of civil court barred as regards matters arising under this Act.*—No civil court shall entertain any suit instituted or application made, to obtain a decision or order in respect of any matter which the Chief Commissioner or any officer is, by this Act empowered to determine, decide or dispose of.

45. *Public servants in-demnified for acts done under this Act.*—No suit or other legal proceedings shall be maintained in respect of the exercise of any powers or discretion conferred by this Act, or against any public servant or person duly appointed or authorised under this Act, in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

46. *Rules.*—(1) The Chief Commissioner may by notification make rules for carrying out the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power, the Chief Commissioner may make rules providing for—

- (a) the manner of publication under sub-section (2) of section 4, sub-section (1) of section 14, sub-sections (1) and (2) of section 19, sub-section (4) of section 20 and sub-section (1) of section 21;
- (b) the manner of giving public notice under sub-section (3) of section 5;
- (c) the manner of giving notice under sub-section (2) of section 6;
- (d) the procedure to be followed in the preparation of the scheme under sub-section (2) of section 14;
- (e) the manner in which the area is to be reserved under section 18 and the manner in which it is to be dealt with and also the manner in which the village abadi is to be given to proprietors and non-proprietors (including scheduled castes, artisans and labourers) on payment of compensation or otherwise;
- (f) the manner in which compensation recoverable from any person under subsection (3) of section 23 shall be deposited by him;
- (g) the guidance of the Consolidation Officer in respect of the transfer of a lease, mortgage or other encumbrance under section 26;
- (h) the manner in which the area and assessment (including water-rate, if any) of each reconstituted holding and tenancy shall be determined;

- (i) the appointment of guardians *ad litem* for minors;
- (j) generally for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act; and
- (k) any other matter which is to be or may be prescribed

(3) All rules made under this section shall be subject to the conditions of previous publication.

[No. 20/2/51-Judl.]

New Delhi, the 19th December 1951

S.R.O. 2064.—In exercise of the powers conferred by section 2 of the Part C States (Laws) Act, 1950 (XXX of 1950), the Central Government hereby extends to the State of Ajmer, the Madras Restrictions of Habitual Offenders Act, 1948 (Madras Act VI of 1948), as at present in force in the State of Madras, subject to the following modifications, namely:—

1. Throughout the Act, except as otherwise provided,
 - (a) for the word "Government" the words "Chief Commissioner" shall be substituted.
 - (b) for the words "Fort St George Gazette" the words "Gazette of India" shall be substituted.
2. In section 1—
 - (a) in sub-section (2), for the word "Madras", the word "Ajmer" shall be substituted.
 - (b) sub-section (3), shall be omitted.
3. In section 2, clauses (1) to (3) (both inclusive) shall be omitted.
4. In clause (a) of sub-section (1) of section 3, for the words "they are" the words "he is" shall be substituted.
5. In section 4, for the word "their" the word "his" shall be substituted; and for the word "his" the word "the" shall be substituted.
6. In sub-section (1) of section 6, for the word "they" the word "he" shall be substituted.
7. In section 7, for the word "his" the word "the" shall be substituted.
8. In section 9, for the word "them" the words "the Chief Commissioner" shall be substituted.
9. In section 16—
 - (a) sub-section (2) shall be omitted.
 - (b) in sub-section (3), the words, figures and brackets "or sub-section (2)" shall be substituted.
10. Sections 17 and 18 of the Act shall be omitted.
2. The text of the Act as modified is published as an annexure to the notification.

ACT No. VI OF 1948

An Act for imposing certain restrictions on habitual offenders in the Province of Madras

WHEREAS it is expedient to impose certain restrictions on habitual offenders in the Province of Madras; It is hereby enacted as follows:—

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Restriction Habitual Offenders Act, 1948.

(2) It extends to the whole of the State of Ajmer.

2. *Definition.*—In this Act, unless there is anything repugnant in the subject or context—

(4) "habitual offender" means a person who before or after the commencement of this Act, has been sentenced to a substantive term of imprisonment, such sentence not having been set aside in appeal or revision, on not less than three occasions, for one or another of the offences under the Indian Penal Code (Central

Act XLV of 1860.) set forth in the Schedule. each of the subsequent sentences having been passed in respect of an offence committed after the passing of the sentence on the previous occasion;

Explanation.—The passing of an order requiring a person to give security for good behaviour with reference to section 110 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), shall be deemed to amount to the passing of a sentence of substantive imprisonment within the meaning of this clause.

(5) "notification" means a notification published in the *Gazette of India*,

(6) "notified offender" means a habitual offender in respect of whom a notification has been issued under section 3 and is in force;

(7) "prescribed" means prescribed by rules made under this Act;

(8) "settlement" means a settlement established or deemed to be established under section 8.

NOTIFICATION OF OFFENDERS AND RESTRICTIONS OF THEIR MOVEMENTS

3. *Power of Government to notify habitual offenders.*—(1) The Chief Commissioner may, by notification—

(a) if he is satisfied that any person is a habitual offender, declare that he shall be subject to the provisions of this Act to such extent and subject to such restrictions, if any, as may be specified in the notification;

(b) cancel or modify any such declaration,

(2) Before any notification is issued in respect of any person under sub-section (1), clause (a), or modified to his disadvantage under sub-section (1), clause (b), a reasonable opportunity shall be given to him to show cause against such issue or modification.

4. *Delegation of powers to District Magistrate.*—The Chief Commissioner may, by notification, delegate his powers under section 3 to a District Magistrate, in respect of persons ordinarily residing in the district, subject to such restrictions and conditions as may be specified in the notification and subject also to control and revision by them.

5. *Notified offenders to intimate residence and change of residence.*—Every notified offender shall intimate to such authority and in such manner as may be prescribed, his place of residence, every change or intended change thereof, and every absence or intended absence therefrom:

Provided that the District Magistrate or any officer authorized by him may exempt any such offender from reporting any temporary absence or intended absence from his residence, not exceeding such limit as may be prescribed.

6. *Power to restrict movements of notified offenders.*—(1) If in the opinion of the Chief Commissioner it is expedient to do so, he may, by notification, declare that any notified offender shall be restricted in his movements to a specified area.

(2) Before making any such declaration, the Chief Commissioner shall consider—

(i) the nature of the offences, if any, of which the offender has been convicted and the circumstances in which they were committed;

(ii) whether the offender follows any lawful occupation, and whether such occupation is a real one or merely a pretence for facilitating the commission of offences;

(iii) the suitability of the area to which his movements are to be restricted;

(iv) the manner in which it is proposed that he should earn his living in such area, and the adequacy of the arrangements therefor.

7. *Power to cancel or alter such restrictions.*—The Chief Commissioner may, by notification, cancel any declaration made under section 6 or alter any area notified under that section or this section; and the District Magistrate may, by order in writing alter any area notified under section 6 or this section into any other area situated in the district:

Provided that before issuing any such notification or order, the Government or the District Magistrate shall consider the matters referred to in section 6, sub-section (2), in so far as they may be applicable.

SETTLEMENTS

8. *Power to place notified offenders in settlement.*—The Chief Commissioner may establish industrial, agricultural or reformatory settlements and may order any notified offender to be placed in any such settlement.

9. *Power to discharge or transfer persons from settlements.*—The Chief Commissioner or any officer authorized by him may at any time, by order, direct any notified offenders who may be in a settlement to be discharged, or transferred to any other settlement.

10. *Power to subject voluntary residents in settlements to restrictions and penalties.*—The Chief Commissioner may, by order, direct that any person voluntarily residing in any settlement shall be subject to all or any of the restrictions and penalties imposed by or under this Act on a notified offender placed in such settlement.

RULES

11. *Power to make rules.*—(1) The Chief Commissioner may make rules to carry out the purposes of this act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate—

- (a) all matters required or allowed by this Act to be prescribed;
- (b) the restrictions to be observed by notified offenders in respect of whom notifications or orders have been issued under section 6 or section 7;
- (c) the grant of certificates of identity to notified offenders, and the inspection of such certificates;
- (d) the conditions under which notified offenders may be permitted to leave the area to which their movements are restricted or the places in which they are settled;
- (e) the inspection of the residences of notified offenders;
- (f) the terms upon which notified offenders may be discharged from the operation of this Act;
- (g) the management and supervision of settlements including the discipline and conduct of the persons placed in them;
- (h) the periodical review of the cases of all persons who have been placed in any settlement under this Act.

(3) All rules made under this section shall be published in the *Gazette of India* and upon such publication shall have effect as if enacted in this Act.

PENALTIES AND PROCEDURE

12 Any notified offender who contravenes any of the provisions of this Act or any notification, rule or order made thereunder shall be punishable—

- (a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both;
- (b) on a second or subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both;

13 *Arrest of notified offenders.*—If a notified offender—

- (a) is found outside the area to which his movements have been restricted, in contravention of the conditions under which he is permitted to leave such area, or
- (b) escapes from any settlement in which he has been placed,

he may be arrested without warrant by any police officer, village headman or village-watchman if the offender is arrested, he shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the Magistrate and the offender shall not be detained beyond the said period without the authority of a Magistrate. The Magistrate shall, on production of the offender and on proof of the facts, order him to be removed. Such area or to such settlement, there to be dealt with in accordance with this Act and any rules made thereunder.

14. *Rules for the removal of prisoners to apply in certain cases.*—Every law or rule for the time being in force governing the removal of prisoners shall apply to all persons ordered to be placed in a settlement under section 8 or to be removed under section 13:

4r.2

Provided that no order from the Chief Commissioner or the Inspector-General of Prisons shall be necessary for the removal of such persons.

MISCELLANEOUS

15. *Bar of jurisdiction.*—No Court shall question the validity of any notification other than one under section 3; or order, issued under this Act.

16. *Effect of certain orders passed under Criminal Tribes Act, 1924, etc.*—(1) In respect of every person who stood registered under the Criminal Tribes Act, 1924 (Central Act VI of 1924) (hereinafter in this section referred to as the said Act) at the commencement of this Act and who, within a period of five years immediately preceding such commencement, had been either ordered to give security for good behaviour with reference to section 110 of the Code of Criminal Procedure, 1898 (Central Act V of 1898), or convicted of an offence under section 24 of the said Act or of a non-bailable offence under any other law, a notification shall be deemed to have been issued under section 3, sub-section (1), of this Act, declaring him to be subject to all the provisions of this Act; and this Act shall apply to every such person accordingly.

(3) Any notification or order issued or made under the said Act in respect of any person referred to in sub-section (1) and in force at the commencement of this Act, restricting the movements of such person or placing him in a settlement shall be deemed to have been issued or made under this Act.

(4) All settlements established under section 16 of the said Act and existing at the commencement of this Act shall be deemed to have been established under Section 8 of this Act.

THE SCHEDULE

[See Section 2(5).]

CHAPTER XII

SECTIONS

231. Counterfeiting coin.
232. Counterfeiting Queen's coin.
233. Making or selling instrument for counterfeiting coin.
234. Making or selling instrument for counterfeiting Queen's coin.
235. Possession of instrument or material for the purpose of using the same for counterfeiting coin.
239. Delivery of coin, possessed with the knowledge that it is counterfeit.
240. Delivery of Queen's coin possessed with the knowledge that it is counterfeit.
242. Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.
243. Possession of Indian coin by a person who knew it to be counterfeit when he became possessed thereof.

CHAPTER XVI

299. Culpable homicide.
307. Attempt to murder.
308. Attempt to commit culpable homicide.
310. Being a thug.
322. Voluntarily causing grievous hurt.
326. Voluntarily causing grievous hurt by dangerous weapons or means.
327. Voluntarily causing hurt to extort property or to constrain to an illegal act.
328. Causing hurt by means of poison, etc., with intent to commit an offence.
329. Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.
332. Voluntarily causing hurt to deter public servant from his duty.
333. Voluntarily causing grievous hurt to deter public servant from his duty.
369. Kidnapping child under ten years with intent to steal from its person.

CHAPTER XVII

SECTIONS

382. Theft after preparation made for causing death, hurt or restraint, in order to the committing of the theft.
383. Extortion.
385. Putting person in fear of injury in order to commit extortion.
386. Extortion by putting a person in fear of death or grievous hurt.
387. Putting person in fear of death or of grievous hurt in order to commit extortion.
390. Robbery.
391. Dacoity.
393. Attempt to commit robbery.
394. Voluntarily causing hurt in committing robbery.
397. Robbery or dacoity, with attempt to cause death or grievous hurt.
398. Attempt to commit robbery or dacoity when armed with deadly weapon.
399. Making preparation to commit dacoity.
402. Assembling for purpose of committing dacoity.
457. Lurking house-trespass or house-breaking by night in order to the commission of an offence punishable with imprisonment.
458. Lurking house-trespass or house-breaking by night after preparation for hurt, assault or wrongful restraint.
459. Grievous hurt caused whilst committing lurking house-trespass or house-breaking.
460. All persons jointly concerned in lurking house-trespass or house-breaking by night punishable where death or grievous hurt caused by one of them.

[No. 20/15/51-Judl.]

E. C. GAYNOR, Dy. Secy.

New Delhi, the 19th December 1951

S.R.O. 2065.—In exercise of the powers conferred by Sections 4, 10, 17 and 27 of the Indian Arms Act, 1878 (XI of 1878), the Central Government hereby directs that the following further amendment shall be made in the Schedule VIII annexed to the Indian Arms Rules 1951, namely:—

In Form VII, below the words "Commissioner of Police", wherever they occur, the words 'Chief Secretary to the Government of the Part B States concerned shall be inserted; and below the words, figures and brackets 'Commissioner of Police [rule 21(2)(a)]' the words, figures and brackets 'Chief Secretary to the Government of the Part B State concerned [rule 21(2)(aa)], shall be inserted.

[No. 9/26/51-Police(I).]

U. K. GHOSHAL, Dy. Secy.

New Delhi, the 19th December 1951

S.R.O. 2066.—*Corrigendum.*—In the notification of the Ministry of Home Affairs No. 9/26/51-Police(I), dated the 7th November, 1951, published as S.R.O. 1760 on pages 1952 and 1953 of the *Gazette of India*, in Part II, Section 3, dated the 17th November, 1951 the words "and afteromitted" occurring after the words, letter and brackets "In clause (b). omitted" in clause (b) of paragraph 7 shall be deleted.

[No. 9/26/51-Police(I).]

C. P. S. MENON, Under Secy.

MINISTRY OF FINANCE
(Department of Economic Affairs)

New Delhi, the 24th December 1951

S.R.O. 2067.—In exercise of the powers conferred by clause (1) of article 258 of the Constitution, the President hereby entrusts to the Government of each of the Part B States (except Hyderabad, Mysore and Jammu and Kashmir), with the consent of that Government, the functions of the Central Government under the Explanation to section 25 of the Negotiable Instruments Act, 1881 (XXVI of 1881), subject to the condition that, notwithstanding this entrustment, the Central Government may itself exercise the said functions should it deem fit to do so in any case.

[No. F.7(13)-F.I/51.]

S. K. SEN, Dy. Secy

MINISTRY OF FINANCE (REVENUE DIVISION)

INCOME-TAX

New Delhi, the 22nd December 1951

S.R.O. 2068.—In exercise of the powers conferred by section 60A of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government directs that any income received by the following persons as their maintenance allowance out of the public revenues shall be exempt from income-tax and super-tax and shall not be included in their total income or total world income—

- (1) Sir Tukoji Rao Holkar of Indore.
- (2) His Highness Maharawal Shri Sir Indrasinhji Pratapsinhji, K.C.I.E., of Bansda upto 13th November 1951.
- (3) Rana Shri Ranjitsinhji Gambhirsinhji C.I.E., of Jambughoda.
- (4) His Highness Shri Sir Bhavanji Singh Bahadur, K.C.S.I. of Danta.

This notification shall have effect from the assessment year 1950-51 onwards

[No. 126]

S.R.O. 2069.—In exercise of the powers conferred by section 10 of the Taxation on Income (Investigation Commission) Act, 1947 (XXX of 1947), the Central Government hereby directs that the following further amendment shall be made in the Taxation on Income (Investigation Commission) Rules, 1948, namely:—

“After sub-rule (2) of rule 9 of the said Rules, the following sub-rule shall be inserted, namely:—

- “(3) Where any banking Company has in pursuance of a direction of the Commission or the authorized official furnished any statement, copy of a document or certificate to the Commission or the authorized official, the banking company may be paid fees therefor on the following scale namely:—

Searching fees:

For each year or part of a year in respect of
which search is made ... Rs. 3-0-0

Copies:

For each folio or part thereof ... Rs. 3-0-0

Certificate:

For a certificate under section 6 of the Public
Books Evidence Act, 1891 ... Rs. 3-0-0

(A folio is a page of not less than 40 lines and not more than 50 lines.)”

[No. 127.]

S. P. LAHIRI, Dy. Secy.

CENTRAL BOARD OF REVENUE**INCOME-TAX**

New Delhi, the 19th December 1951

S.R.O. 2070.—The following draft of amendment to the Indian Income-tax (Provident Fund Relief) (Central Board of Revenue) Rules 1930, which the Central Board of Revenue proposes to make in exercise of the powers conferred by Chapter IX-A, read with sub-section (4) of section 59, of the Indian Income-tax Act, 1922 (XI of 1922), is published for the information of all persons likely to be affected thereby, and, notice is hereby given that the said draft will be taken into consideration on or after the 21st January 1952. Any objection or suggestion which may be received from any person with respect to the said draft will be considered by the said Board.

Draft Amendment.

For sub-rule (2) of rule 1 of the said Rules, the following sub-rule shall be substituted, namely:—

“(2) They extend to the whole of India except the State of Jammu and Kashmir’

[No. 125.]

S. P. LAHIRI, Secy.

—————
CUSTOMS

New Delhi, the 24th December 1951

S.R.O. 2071.—In exercise of the powers conferred by section 76 of the Sea Customs Act, 1878 (VIII of 1878), and in supersession of its notification No. 46-Customs, dated the 27th May 1950, the Central Board of Revenue directs that the operation of the said section shall be suspended—

- (a) in its entirety, in the port of Madras, and
- (b) in the port of Calcutta and in all ports wholly situated in the State of Madras, other than the port of Madras, in so far as it relates to the issue of Boat-notes for export of cargo.

[No. 84.]

S.R.O. 2072.—In exercise of the powers conferred by Clause (a) of section 11 of the Sea Customs Act, 1878 (VIII of 1878), and in supersession of its notification No. 124-Customs, dated the 9th September 1950, the Central Board of Revenue hereby declares the following places wholly or partly situated in the State of Travancore-Cochin to be ports for the shipment and landing of goods, namely:—

ALLEPPEY
QUILON
TRIVANDRAM
KOILTHOTTAM
COLACHEL
COCHIN

[No. 85.]

S.R.O. 2073.—In exercise of the powers conferred by Clause (a) of section 11 of the Sea Customs Act, 1878 (VIII of 1878), the Central Board of Revenue hereby directs that the following amendment shall be made in its notification No. S.R.O. 532, dated the 9th September 1950, namely:—

In column 2 of the Schedule to the said notification, the entry ‘Cochin’ against item No. 9 shall be omitted.

[No. 86.]

D. P. ANAND, Secy.

MINISTRY OF COMMERCE AND INDUSTRY

New Delhi, the 19th November 1951

S.R.O. 2074.—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Commerce and Industry No. PC-7(2)/50, dated the 13th July, 1951, namely:—

In the Schedule annexed to the said notification, in items 1 to 3, for clause (a) in the entry in column 3, the following clause shall be substituted, namely:—

“(a) actual railway freight by goods train or actual transport charges by sea from any of the localities specified in column 2 to the place of destination, and”

2. Notification of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 1938, dated the 4th December, 1951, is hereby cancelled.

[No. PC-7(14)/50-(i).]

S.R.O. 2075.—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), the Central Government hereby directs that the following amendment shall be made in the notification of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 720 dated, the 12th May 1951, namely:—

In the Schedule annexed to the said notification, for clause (a) in the entry in column 3 against each of the items 1 to 3, the following clause shall be substituted, namely:—

“(a) actual railway freight by goods train or actual transport charges by sea from any of the localities specified in column 2 to the place of destination, and”

2. Notification of the Government of India in the Ministry of Commerce and Industry No. S.R.O. 1939, dated the 4th December 1951, is hereby cancelled.

[No. PC-7(14)/50-(ii).]

P. S. SUNDARAM, Under Secy.

New Delhi, the 24th December 1951

S.R.O. 2076.—The following Notification issued by the Iron and Steel Controller under Clause 11B of the Iron and Steel (Control of Production and Distribution) Order, 1941, is published for general information:—

“NOTIFICATION

In exercise of the powers conferred by sub-clause (1) of clause 11B of the Iron and Steel (Control of Production and Distribution) Order, 1941, the Iron and Steel Controller is pleased to notify the following amendment to the Freight (Place Extras) List No. 1 of 1949 issued under the late Ministry of Industry and Supply Notification No. I(1)-1(146), dated the 9th March, 1949, published in the *Gazette of India*, dated the 12th March 1949, as amended from time to time, namely:—

Addendum

Add the following entries in the List in alphabetical order:—

Destination	Place Extra per ton
	Rs. A. P.
Abiramam	48 8 0
Adirampatnam	21 8 0
Aduthurai	17 4 0
Akivedu	28 12 0
Akkur	18 0 0
Alanganallur	34 8 0

Destination	Place Extra per ton
	Rs. A. P.
Alangudi	26 4 0
Alangulam	40 12 0
Almora O. A.	130 12 0
Aluabari Road	38 4 0
Alur	41 8 0
Alwar Tirunagiri	36 4 0
Amila	42 0 0
Andimadam	28 4 0
Arantangi	24 8 0
Arumuganeri	38 0 0
Aruppukottai	42 0 0
Attur	17 4 0
Ayyampet	20 0 0
Azimganj Jn.	13 4 0
Bantwal	51 4 0
Baoria Thukria	58 12 0
Barabanki	50 8 0
Battagundu	33 12 0
Beas	83 8 0
Beldona	50 12 0
Belthanagady	57 12 0
Bennihalli	100 0 0
Bhabua Road	33 8 0
Bhagtanwala	85 8 0
Bhattiprolu	23 8 0
Bhusaval	24 8 0
Bodinayakkanur	41 12 0
Bommanahal	30 0 0
Borawar	57 4 0
Budaun	63 4 0
Buddalur	20 8 0
Chaganur	35 12 0
Chinamanur	54 8 0
Chinnamananpatti	37 0 0
Chunna Saleru	15 12 0
Chomu Samod	58 4 0
Coondapur	74 8 0
Coonoor	39 8 0
Coronandel	17 0 0
Cumbum	32 4 0
D. Hirehal	32 4 0
Dainhat	9 0 0
Datis	57 12 0
Dogana	56 0 0
Donduluru	27 4 0
Devakottai	38 8 0
Duggavathi	138 0 0
Duggurda	22 12 0
Elamanur	20 8 0
Falla	8 0 0
Ghataprabha	46 12 0
Gholesiapur	7 4 0
Govindapuram	18 0 0
Gulyam	55 8 0
Gurdaspur	88 8 0
H. Hadavalu	62 4 0
Hadagah	53 12 0
Hageri	27 4 0
Hagarilommanahalli	33 4 0
Hajipur	32 0 0
Halaharvi	44 4 0
Harapanahalli	60 4 0
Hardageri	46 0 0
Holagundi	56 12 0

Destination	Place Extra per ton		
	Rs.	A.	P.
Ingur	22	12	0
Indupalle	25	12	0
Ilayankudi	34	8	0
Inam Narayanapuram	34	12	0
Jagraon	81	0	0
Jamtara	15	0	0
Jukehi	53	12	0
Jaitu	77	0	0
Jhunjhunu	62	8	0
Jullundur Cantt.	82	4	0
Kadayanallur	34	4	0
Kadiri	20	0	0
Kaikalur	28	0	0
Kalahasti	11	0	0
Kalarukoil	38	8	0
Kalasapakkam	14	12	0
Kambam	50	8	0
Kamapuram	39	8	0
Kampli	48	0	0
Kamuthi	54	8	0
Kanekal	47	0	0
Kanhangad	43	0	0
Kapasin	47	8	0
Kariyavalamvandallur	33	4	0
Karkal	56	8	0
Karupatti	20	0	0
Katihar	30	12	0
Katpadi	8	8	0
Kecranur	29	8	0
Kilukudayan	36	8	0
Kidanganj	29	8	0
Kivalur	10	0	0
Kodaikanal which is about 50 miles from Kodaikanal Road Station	75	4	0
Koduru	10	12	0
Kollur Road	23	0	0
Kondapalli	25	8	0
Kudatiru	29	0	0
Kudlgi	41	8	0
Kumbha	44	12	0
Kunipadi	13	12	0
Kurugodu	75	12	0
Kuzumbur	36	12	0
Kuttalam	17	0	0
Lankalakodan	50	12	0
Macherla	30	4	0
Madanapalle Town O. A.	22	0	0
Maddikera	25	8	0
Madhavaram	38	12	0
Macalam	67	4	0
Mutholanapuram	22	4	0
Muthupuram	46	8	0
Madanoduru	31	8	0
Mudavalli	27	8	0
Mandla Fort	56	12	0
Mangalgi	24	8	0
Mangalpet	45	4	0
Maniyachi	34	0	0
Manjeshwar	45	8	0
Mansapooran	65	4	0
Mantapannal	13	4	0
Maryannahalli	32	4	0
Markapur Road	31	0	0
Marudur	20	0	0
Mayanoor	22	8	0

Destination	Place Extra per ton	
	Rs.	A. P.
McDonalds Choultry	29	0 0
Melur	37	12 0
Meramandeli	26	12 0
Mirzapali	42	8 0
Moodabidri	53	8 0
Muddanageri	42	0 0
Mudukulathur	40	8 0
Mulki	58	4 0
Mustabada	24	8 0
Mylavaram	30	8 0
N. D. Keri	40	12 0
Narsinganpet	17	12 0
Natham	36	4 0
Nathnagar	24	0 0
Nazareth	36	4 0
Nerkuppai	50	4 0
Nilakottai	29	4 0
Nilleshwar	16	0 0
Nira	16	0 0
Omalar	19	8 0
Oblapuram	28	12 0
Pakur	16	0 0
Pannaikadu	54	12 0
Panruti	11	4 0
Panthotam	17	4 0
Panyam	31	4 0
Papanasam	16	4 0
Pasur	20	3 0
Pattambi	31	12 0
Pavuruthuram	36	0 0
Pavvanur	41	0 0
Pelidathur		0 0
Paddapuram	37	0 0
Pennadam	14	0 0
Penukonda	25	8 0
Peravuruni	23	4 0
Periyakulam	41	8 0
Perundurai	22	8 0
Pettai	34	12 0
Phillaur	80	0 0
Ponneri	4	8 0
Pudupatti	34	0 0
Pugalur	24	4 0
Purnea Jn.	26	0 0
Puttur	56	0 0
Rajkot Town	40	8 0
Ramasagaram	44	12 0
Ramchandrapuram No. 1	38	4 0
Ramchandrapuram No. 2	25	4 0
(Nearest Railway Station Tirunelveli)		
Ramnagar	68	12 0
Rampura Phul	77	4 0
Renipet	8	0 0
Rayavaram	26	8 0
Rewa	65	0 0
Saharsa	31	4 0
Salemangalam	20	4 0
Sanahwal	80	4 0
Sanapiratti	23	8 0
Sangrana Sahib	35	12 0
Sankaranayinarkovil	33	4 0
Sarugeni	46	8 0
Saugor	53	4 0

Destination	Place Extra per ton			
		Rs.	A.	P.
Savelyapuram.		27	12	0
Sendurai.		20	8	0
Sengamalanachipuram		32	12	0
Sernadevi		35	8	0
Shahabad		31	12	0
Sholinghur		7	4	0
Shujaulpur		44	8	0
Sikkil		19	4	0
Singapureri		52	4	0
Sitamathi		35	4	0
Songad		39	4	0
Sulur Town		30	8	0
Tallepudi		37	4	0
Tambarahalli		41	12	0
Tanguturu		15	12	0
Taraiyur		31	12	0
Tattaiwel		24	12	0
Tattaparai		35	0	0
Tenkasi		35	0	0
Theni		46	0	0
Thenichiyam		34	12	0
Thirumalavadi.		23	8	0
Thiruvadanai		59	8	0
Thiruchendur		37	8	0
Thukoilur		11	12	0
Tirupathur		38	8	0
Tirupati East		9	12	0
Tiruvadamardur		18	4	0
Tiruvannaimallur Road		11	0	0
Tranquebar		18	8	0
Trichinopoly Fort		19	12	0
Trikarpur		42	0	0
Tuggali		26	4	0
Tummalacheruvu		28	0	0
Udipi		64	0	0
Uluberia		4	4	0
Usilampatti		46	0	0
Uthankudi		30	8	0
Uttukuli		23	12	0
Vangal		27	8	0
Vanyambadi		12	0	0
Vayalpad		15	12	0
Vetapalemu		19	0	0
Viralakkiyam		23	0	0
Viravannallur		35	12	0
Viralimalai		20	0	0
Vittal		54	8	0
Watrap		43	8	0
Wellington		40	8	0
Yedapalle		38	4	0
Yemmiganur		41	12	0
Yeotmal		41	8	0
Yermaras		32	0	0

M. K. POWVALA,
Iron and Steel Controller."

[No. SC(A)-2(71)/51.]

CENTRAL TEA BOARD

New Delhi, the 28th December 1951

S.R.O. 2077.—In pursuance of section 4 of the Central Tea Board Act, 1949 (XIII of 1949), the Central Government is pleased to notify that Mr. G. R. Thurnham of M/s. Tea Estates India Ltd., Davershola, P.O. (Nilgiris), nominated by the United Planters' Association of Southern India shall be a member of the Central Tea Board vice Mr. B. St. J. Boulthbee, resigned.

2. Mr. G. R. Thurnham shall hold office for a term of three years with effect from the date of this notification.

[No. 306(1)-Plant(Tea)/51.]

M. R. A. BAIG, Dy. Secy.

New Delhi, the 29th December 1951

S.R.O. 2078.—In exercise of the powers conferred by Section 3 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the following further amendments shall be made in the Cotton Textiles (Control) Order, 1948, namely:—

In the said order—

(1) in sub-clause (ii) of clause 20A—

(i) in item (b) for the words "tapes and tabular bandings the words "tapes, ropes and twisted cords, bundle or tubular bandings" shall be substituted;

(ii) in item (c) after the word "bundles", the words "and stitching of cloth ends" shall be added.

(iii) for the existing proviso the following shall be substituted, namely:—

"Provided that in relation to manufacture of hosiery and manufacture of reeds and healds, the Textile Commissioner may, by Order in writing, and having regard to—

(a) the quantity of yarn which any such producer is required to sell under the provisions of sub-clause (1) and (2) of clause 12; and

(b) the quantity of hosiery or the quantity of reeds and healds, as the case may be, produced by him in any of the two years 1949 and 1950, authorise the producer to utilise a specified quantity of yarn for the manufacture of hosiery or the manufacture of reeds and healds.

(2) in clause 20A—

(i) in the proviso to sub-clause (1) after the words "utilise specified" the words "number or" shall be inserted.

(ii) in sub-clause (ii) after the words "for the weaving of cloth" the words "or the weaving of a fabric from the staple fibre spun in his undertaking" shall be added.

(3) in clause 20C after the second proviso the following proviso shall be added, namely—

"Provided further that nothing in this clause shall apply to any such producer who processes, under the authority of the Textile Commissioner—

(i) any yarn belonging to a handloom weaver or a producer who has no spinning plant;

(ii) any handloom cloth.

(4) in clause 21—

(i) in sub-clause (1) after item (c) of the second proviso, the following item shall be added, namely,—

(d) Cloth in respect of which any direction issued under sub-clause (2) of clause 30 requires the sale of a quantity different from the quantity specified for full, one-half or one-quarter bales as aforesaid."

(ii) in the proviso to sub-clause (2) after the word "containing" the word "three-fourth" shall be inserted.

(iii) in the explanation to sub-clause (3) after item (iv) the following item shall be added, namely:—

"(v) the following varieties of cloth, namely, cotton waste blankets, durries, towels, and furnishing fabrics shall be excluded in determining any quantity of cloth referred to in paragraph (d); provided that the Textile Commissioner may by general order direct producers having a spinning plant to pack during any month for sale in India a specified minimum quantity of any of the said varieties of cloth out of the total quantity of that variety packed during that month."

(5) in clause 23, for sub-clause (3), the following sub-clause shall be substituted, namely,—

"(3) No person shall in the manufacture of cloth use sewing thread or sewing thread yarn."

(6) in sub-clause (1) of clause 30—

(i) for the word "deliver" the words "other-wise dispose of" shall be substituted;

(ii) in item (a) after the words "requirements of the Central Government" the words "a State Government or a local authority" shall be added;

(iii) for item (c) the following item shall be substituted, namely,—

"(c) wholesale dealers or other persons nominated by a State Government or by the Textile Commissioner".

(iv) in item (d) after the words "manufacture of any goods" the words "who are nominated by the Textile Commissioner" shall be added.

(7) in sub-clause (2) of clause 30 after the words "to sell" the words "or deliver" shall be inserted.

(8) in sub-clause (4) of clause 30 the words "percentage of" shall be deleted.

(9) In clause 30A for sub-clause (1) the following shall be substituted, namely,—

"30A(1): A wholesale dealer shall not sell or deliver any cloth or yarn except

(a) to a dealer or dealers,

(b) to an owner of an undertaking in which cloth or yarn is required for the manufacture of any goods, or

(c) to the management of an institution for purposes of consumption therein,

specified by the Controller".

(10) Schedule 'B' shall be omitted.

[No. 9(4)-CT/51-14]

S. A. TECKCHANDANI, Under Secy.

ORDER

New Delhi, the 21st December 1951

S.R.O. 2079.—In exercise of the powers conferred by section 4 of the Supply and Prices of Goods Act, 1950 (LXX of 1950), and in supersession of the notification of the Government of India in the late Ministry of Industry and Supply S.R.O. No 503 dated, the 2nd September 1950, in so far as it relates to the fixation of maximum price of Soda ash imported from the U.S.A. the Central Government hereby fixes the following schedule of maximum prices for 350 long tons of

soda ash imported per S.S. City of Bedford during September 1951, by the Indian Commercial Company Ltd., Bombay.

SCHEDULE

(1)	(2)	(3)	(4)	(5)
Variety of soda ash	Maximum price that may be charged by the importer	Maximum price that may be charged by a distributor	Maximum price that may be charged by a wholesale dealer	Maximum price that may be charged by a retail dealer
Light Soda Ash.	Rs 28-2-0 per cwt. Ex-godown/FOR Bombay.	The price specified in col. 2 PLUS (a) actual railway freight by goods train or actual transport charges by sea from Bombay to the place of destination, and (b) handling charges not exceeding annas eight per cwt.	The price specified in Column 3 PLUS a margin not exceeding annas eight per cwt.	The price specified in Column 4 PLUS a margin not exceeding Rs. 1-12-0 per cwt.

NOTE.—These prices are exclusive of local taxes, such as Sales Tax, Octroi etc., which may be charged extra.

[No. PC-7(16)51.]

C. R. NATESAN, Dy. Secy

MINISTRY OF FOOD AND AGRICULTURE

AGRICULTURE

New Delhi, the 19th December 1951

S.R.O. 2080.—In exercise of the powers conferred by sub-section (1) of section 3 of the Livestock Importation Act, 1898 (IX of 1898) and in supersession of the notification of the Government of India in the late department of Education, Health and Lands No. 32-12(15)/44-A, dated the 12th August, 1944, the Central Government hereby prohibits with immediate effect the bringing by sea of any livestock from any place outside India to any place to which the said Act extends other than the ports of Bombay, Calcutta, Madras and Cochin.

[No. F.10-26/51-L.]

S. K. MIRCHANDANI, Under Secy.

New Delhi, the 21st December 1951

S.R.O. 2081.—In exercise of the powers conferred by clause 11 of the Sugar and Gur Control Order 1950, the Central Government is pleased to direct that the powers conferred on it by clause 9 (a), (b) and (c) of that Order shall be exercisable by the Director, Indian Institute of Sugar Technology, Kanpur, subject to any general or special order which may be issued by the Central Government from time to time.

[No. SV-105(2)/50-51.]

P. A. GOPALAKRISHNAN, Joint Secy.

New Delhi, the 24th December 1951

S.R.O. 2082.—Under section 4 (IX) of the Indian Cotton Cess Act, 1923 (XIV of 1923), the Central Government are pleased to appoint Shri M. Sankara Menon, Director of Agriculture, Travancore-Cochin State to be a member of the Indian Central Cotton Committee, Bombay.

[No. F.1-52/51-CJ.]

S.R.O. 2083.—In pursuance of the provisions of section 4(X) of the Indian Cotton Cess Act, 1923 (XIV of 1923), the Central Government are pleased to appoint Shri Bharat Ram, 22, Curzon Road, New Delhi, to be an additional member of the Indian Central Cotton Committee, Bombay *vice* the late Shri Shanker Lal.

[No. F.1-6/51-CJ.]

S. R. MAINI, Dy. Secy.

New Delhi, the 22nd December 1951

S.R.O. 2084.—*Corrigendum.*—In this Ministry notification No F.4-7/51-Dte.II(M), dated the 21st November, 1951, for the words "Surat type of cotton" appearing in line 2 of the opening paragraph of Schedule IV, the following may be substituted:—

"Broach type of Cotton".

[No. F.4-7/51-Dte.II(M).]

T. M. GURBAXANI, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 19th December 1951

S.R.O. 2085.—The following draft of a certain further amendment to the Drugs Rules, 1945, which it is proposed to make in exercise of the powers conferred by sections 12 and 33 of the Drugs Act, 1940 (XXIII of 1940), is published as required by the said sections for the information of all persons likely to be effected thereby and notice is hereby given that the draft will be taken into consideration on or after the 22nd March, 1951.

2. Any objections or suggestions which may be received from any person with respect to the said draft before the date specified will be considered by the Central Government.

Draft Amendment

In the said Rules—

for proviso to clause (4) of rule 65, the following proviso shall be substituted, namely:—

"Provided that his condition shall not apply to supply on the prescription of a registered medical practitioner or by way of wholesale dealing, of drugs specified in Schedule C".

[No. F.1-22/51-D.S.]

S. DEVANATH, Under Secy.

MINISTRY OF TRANSPORT

New Delhi, the 19th December 1951

S.R.O. 2086.—In exercise of the powers conferred by clause (e) (2) of section 5 of the Bombay Landing and Wharfage Fees Act, (VII of 1882) and in partial modification of the notification of the Government of India in the Ministry of Transport No. 20-M(6)/50, dated the 23rd August, 1951, the Central Government

hereby fixes a fee of one anna to be levied on every passenger embarking or disembarking at the wharf wall at the minor port of Mandvi.

Provided that

- (1) no fee shall be leviable in respect of a child below three years of age; and
- (2) a fee at half the aforesaid rate shall be levied in respect of a child who has completed his third year but has not completed his twelfth year

[No. 20-M(6)/51.]

T. S. PARASURAMAN, Dy. Secy.

MINISTRY OF COMMUNICATIONS

New Delhi, the 19th December 1951

S.R.O. 2087.—In exercise of the powers conferred by rule 160 of the Indian Aircraft Rules, 1937, the Central Government is pleased to exempt for a further period upto the 30th June 1952, all persons in charge of aircraft engaged in international navigation from the operation of clause (V) of Sub-rule (2) of rule 7 of the said Rules, in so far as it requires such persons to carry in the said aircraft, the aircraft and engine log books subject to the condition that working copies of the aforesaid documents are carried in the said aircraft.

[No. 10-A/44-51.]

P. K. ROY, Dy. Secy.

POSTS AND TELEGRAPHS

New Delhi, the 21st December 1951

S.R.O. 2088.—In exercise of powers conferred by the Indian Post Office Act, 1898 (VI of 1898), the Central Government hereby directs that the following further amendment shall be made in the Indian Post Office Rules, 1933, namely:—

"In clause (e) of sub-rule (1) of rule 17 of the said Rules, after the words "of the insurant" the words "name of the insurance agent, name of the branch office of the Company at which the premium is payable, the sum assured under the policy" shall be inserted

[No. C-15-7/51.]

K. V. VENKATACHALAM, Dy. Secy.

MINISTRY OF RAILWAYS

(Railway Board)

New Delhi, the 24th December 1951

S.R.O. 2089.—Whereas in the notification of the Government of India in the late Railway Department (Railway Board) No. 1078-T, dated the 9th March, 1929, general rules were made for all railways in the territory then known as British India and registered by the Government and for the time being used for the public carriage of passengers, animals or goods

And whereas the said rules were adopted by the Companies administering the Barsi Light Railway and the Madras Port Trust Railway, with the sanction of the Government of India in the late Railway Department (Railway Board) conveyed in the Notifications No. 1078-T, dated the 21st August, 1929 and 26th June, 1929 respectively.

And whereas the said rules were amended by the Railway Board's notification No. 1165-TG, dated 2nd June 1951, published in the *Gazette of India*, Part II Section 3, dated the 9th June, 1951.

Now, therefore, in exercise of the powers conferred by sub-section (3) of the section 47 of the Indian Railways Act, 1890 (IX of 1890), and by the notification of the Government of India in the late Department of Commerce and Industry, No. 801, dated the 24th March, 1951, the Railway Board hereby sanction the making of the said amendment in the said rules as adopted by the Barsi Light Railway, Kurduwadi and the Madras Port Trust Railway, Madras.

[No. 1165-TG.]

RAJENDRA DEV,
Dy. Director Traffic.

MINISTRY OF WORKS, PRODUCTION & SUPPLY

New Delhi, the 21st December 1951

S.R.O. 2090.—In exercise of the powers conferred by section 4 of the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), the Central Government hereby directs that the powers conferred on it by section 3 of the said Act shall, in relation to fixing of the price of Kharaghoda salt, be exercisable also by all Deputy Commissioners in the State of Madhya Pradesh within their respective jurisdictions, subject to any directions of the State Government.

[No. Salt-9/1/49.]

B. B. PAYMASTER, Dy. Secy.

MINISTRY OF LABOUR**ORDERS**

New Delhi, the 20th December 1951 .

S.R.O. 2091.—Whereas the Central Government is of the opinion that an industrial dispute exists or is apprehended between the employers in relation to each of the collieries specified in the Schedule annexed to this order and their workmen in respect of the supply of rice and atta to the workmen at concessional rates;

And whereas the Central Government considers it desirable to refer the dispute for adjudication:

Now therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal at Dhanbad, constituted under section 7 of the said Act.

SCHEDULE

1. Central Satgram Colliery
2. East Jamihari Colliery.
3. Pure Kajora Colliery.
4. Kajora Jambad Colliery.
5. Khas Jambad Colliery.
6. Gazdar Kajora Colliery.
7. Selected Kajora Jambad Colliery.

[No. LR-2(359)]

New Delhi, the 21st December 1951

S.R.O. 2092.—Whereas the Central Government is of opinion that an industrial dispute exists between the employer in relation in the New Asiatic Insurance Co. Ltd., Bombay, and its workmen in respect of the matters specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the dispute for adjudication;

Now therefore in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Central Government Industrial Tribunal at Calcutta, constituted under section 7 of the said Act.

SCHEDULE

1. Whether the charter should adversely affect or take away from any employee any right, privilege, advantage or amenity which is already being enjoyed by him.
2. Adjustments: Whether the fitting of employes' salary in respect of grade should be on a point to point adjustment and whether such adjustment should be made with retrospective effect from 1st January 1950.
3. Whether the increments withheld for the year 1949 should be paid.

4. Victimisation of the President of the Union.
5. Driver's dearness allowance, whether the driver should be paid the dearness allowance of Rs. 45/-p.m.
6. Probationers' Grade.
7. Whether the Company is justified in issuing warnings and circulars to them and in deducting casual leave at the end of year for late attendance.

[No. LR1-90(127).]

S. NEELAKANTAM, Dy. Secy.

New Delhi, the 21st December 1951

S.R.O. 2093.—In pursuance of clause (b) of section 8 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby directs that the following further amendment shall be made in the Notification of the Government of India in the Ministry of Labour, No. SS.121(51), dated the 7th July, 1951, namely:—

In the said notification, for item (4) the following item shall be substituted, namely:—

"(4) Shri S. Neelakantam, Deputy Secretary to the Government of India, Ministry of Labour."

[No. SS.121(51).]

S.R.O. 2094.—In pursuance of sub-section (2) of section 5 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby directs that Shri N. M. Patnalk, a member of the Employees' State Insurance Corporation nominated under clause (c) of section 4 of the said Act, shall cease to be a member of that Corporation with effect from the date of issue of this notification.

[No. SS.121(53)A.]

S.R.O. 2095.—In pursuance of clause (c) of section 4 of the Employees' State Insurance Act, 1948 (XXXIV of 1948), the Central Government hereby directs that the following further amendment shall be made in the notification of the Government of India in the Ministry of Labour, No. SS.21(2)(2), dated the 6th September 1948, namely:—

In the said notification, for item (7), the following item shall be substituted, namely:—

"(7) Shri S. Neelakantam, Deputy Secretary to the Government of India, Ministry of Labour."

[No. SS.121(53)B.]

K. N. NAMBIAR, Under Secy.

New Delhi, the 21st December 1951

S.R.O. 2096.—In exercise of the powers conferred by section 30A of the Indian Mines Act, 1923 (IV of 1923), the Central Government hereby directs that the following further amendments shall be made in the Coal Mines Rescue Rules, 1939, the same having been previously published as required by sub-section (1) of section 31 of the said Act, namely:—

In rule 8 of the said Rules:—

(a) In clauses (a) and (c) the word 'or' shall be added at the end

(b) After clause (c), the following clause shall be added, namely:

"(d) if, in the opinion of the Central Government, it is not desirable that he should continue to be a member of the Committee."

[No. M.41(24)51.]

S.R.O. 2097.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 3 read with sub-section (2) of section 5 of the Minimum Wages Act, 1948 (XI of 1948), the Central Government hereby fixes the minimum rates of wages

specified in the Schedule annexed hereto which shall be payable to employees employed in the Government Housing Factory, Delhi, the same having been previously published as required by clause (b) of sub-section (1) of section 5 of the said Act.

2. The aforesaid minimum rates of wages shall take effect from the date of this notification.

SCHEDULE

Government Housing Factory, Delhi

Serial No.	Class of employees	Minimum rates of wages per day
		Rs.
1.	Mechanic ..	5
2.	Boiler Attendant ..	5
3.	Skilled fitter ..	4
4.	Semi-skilled fitter	2/8/-
5.	Electrician ...	4
6.	Carpenter ...	4
7.	Blacksmith ...	4
8.	Labour Supervisor .	3
9.	Mason ...	4
10.	Furniture polisher .	4
11.	Welder ...	3
12.	Painter ...	3
13.	White washer ..	2/8
14.	Cone-workers	2
15.	Store-holder ...	3
16.	Driver ...	3
17.	Khallasie ...	3
18.	Helper ...	2/8
19.	Beldar	
	Adult Male ...	1/12/-
	Adult Female ..	1/8/-
	Adolescent ..	1/4/-
	Child .	1/-/-
20.	Chowkidar ..	1/14/-
21.	Bhistie ...	1/12/-
22.	Sweeper ...	1/12/-

Note.—The rates given above are inclusive of all allowances

[LWI-24(74).]

P. N. SHARMA, Under Secy.

New Delhi, the 24th December 1951

S.R.O. 2698.—Whereas the Central Government is of opinion that an industrial dispute exists between the Central Bank of India Ltd. and its Treasurers and Investing Agents, Messrs. Bishamber Nath and Brothers on the one hand and the Uttar Pradesh Bank Employees' Union on the other hand, in respect of the matter specified in the Schedule hereto annexed;

And whereas the Central Government considers it desirable to refer the dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal at Calcutta constituted under section 7 of the said Act.

SCHEDULE

Whether the termination of the services of Shri Raghub Nath Kapoor, former cashier in the Central Bank of India Ltd., Meerabad was justified and, if not, whether he should be reinstated, suitably compensated or granted some other relief.

[No. LR-100(6).]

S.R.O. 2099.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (XIV of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta in the industrial dispute between the Hindusthan Co-operative Insurance Society Ltd., and their workmen working in the Head Office and branches.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

20/1 GURUSADAY ROAD, BALLYGUNGE, CALCUTTA-19 (GROUND FLOOR)

Reference No. 1 of 1951

Before Shri K. S. Campbell-Puri, B.A., LL.B., *Chairman*

PARTIES:

The Hindusthan Co-operative Insurance Society Ltd.

AND

Their employees working in the Head Office and the branches.

Appearances

Shri Sadhan Gupta, Bar-at-Law, President, assisted by Shri Apurba Bhattacharjee, General Secretary, Shri K. A. Chitnis, Convenor, Defence Council, Shri S. N. Sharma, Shri J. A. Maul and others for the Federation of Hindusthan Insurance Employees Unions.

Shri R. C. Roy, Law Officer, assisted by Mr R. Cubie, Shri P. N. Talukdar, Shri J. Banerjee, Shri Aswini Majumdar, Shri A. Bhattacharjee for the Company.

AWARD

This dispute between the Hindusthan Co-operative Insurance Society Ltd. and their employees working in the Head Office and the branches in respect of matters specified in the schedule was referred under Notification No. LR-90/50, dated 27th December 1950 to this Tribunal for adjudication by Government of India in the Ministry of Labour in exercise of the powers conferred by clause (c) of the sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (XIV of 1947). The Schedule reads as follows:

SCHEDULE

1. Revision of scales of pay.
2. Special allowances for certain categories of employees.
3. Rules for promotion to higher posts.
4. Bonus.
5. Provident Fund and Gratuity.
6. Leave Rules.
7. Insurance at a reduced rate of premium.
8. Residential accommodation or house rent allowance
9. Children's education allowance.
10. Procedure for termination of employment and for taking disciplinary action.
11. Medical aid and expenses.
12. Provision of general facilities e.g. library and facilities for carrying out trade union activities.

NOTE.—This list is not intended to be exhaustive.

The dispute was registered as Reference No 1 of 1951 in this Tribunal and notice was issued to the parties for filing statement of claim on behalf of the employees with a copy to the employer thereof on the 20th January 1951 and written

statement by the Hindusthan Co-operative Insurance Society Ltd., after 15 days of the receipt of the statement of claim with a copy to the other side. The employees who were represented by the Federation of Hindusthan Insurance Employees Unions (hereinafter called Federation) having been granted some extension in time ultimately filed their statement of claim on 7th March 1951. The Federation, furthermore asked for filing a supplementary statement of claim which was filed 24th March 1951. The written statement on behalf of the Hindusthan Co-operative Insurance Society Ltd. (hereinafter called Society) was filed on 12th May 1951, whereupon the parties were called to a preliminary sitting for 31st May 1951 to discuss the procedure to be followed as well as for filing the list of documents relied upon and list of witnesses to be examined. In this preliminary sitting it was decided that the hearing will take place at Calcutta and the office bearers or any other representatives who will be attending the Tribunal proceedings for the conduct of the case shall be treated on leave of absence which shall not be debited to the personal leave account of the employee concerned. It was also agreed that persons in the employment of the Society and working at various branches when summoned as witness shall also be allowed leave of absence and the same shall not be debited in their personal leave account from the date of leaving the place of duty and reasonable time for return journey. A list of documents and a list of witnesses to be examined was also filed and on the request of the Federation the case was adjourned for a month's time for inspection of Society's record relevant to the case. The next hearing was fixed for evidence on 24th July 1951 but the Federation pleaded their inability to produce their evidence or to examine any witness and the case was once again adjourned to 13th August 1951. On this date the Federation failed to examine any witness because none was summoned for want of addresses of witnesses with the result that the case was again adjourned for recording of evidence to 20th August 1951. The hearing, thereafter, proceeded from day to day till 30th August 1951 with a break of a few days when no witness was present for examination and some of the miscellaneous applications filed in the course of proceedings were disposed of. A fresh list of witnesses was again filed and the case was fixed for further hearing on 10th September 1951. This time it continued from day to day till 18th September 1951 with the close of the Federation's evidence. The proceedings could further continue for recording the evidence of the Society for which a list of witnesses had already been filed but the President of the Employees Federation Shri Sadhon Gupta was not available and the Convenor of the Defence Council pleaded inability to proceed with the case in the absence of the President. The representative of the Society also went some time with the result that the hearing was adjourned to 3rd October 1951 and the parties were asked to try to finish the evidence before the Pujah holidays i.e. by 7th October 1951. The evidence however could not be finished and hearing was adjourned *sine die* as Reference No. 2 of 1951 (Assam Oil Company Ltd.) was to be taken up after Pujah holidays at Dighol. Ultimately the case was fixed for recording the remaining evidence on 26th November 1951 and parties were directed to come prepared for arguments to follow soon after.

It would appear from the above resume of the various adjournments that the hearing was delayed unnecessarily. The one other reason which protracted the proceedings was that the President of the Federation insisted on adducing evidence of 'wastage.' There was conflict between the parties in regard to the admissibility and relevancy of this evidence but it was thought safer to allow evidence on the point of wastage which occupied appreciable time as borne out from the proceedings of the case. Notwithstanding of the time spent and the indulgence shown in accommodating the Federation it is regrettable that the Tribunal was deprived of the assistance of the Federation perhaps designedly when the case was ripe for arguments. A note in the proceedings of 27th November 1951 and the communication from the Convenor Defence Council with Tribunal's comment on that dated 28th November 1951 were placed on the record which bespeaks of the cause of withdrawal. The proceedings continued with the application of Rule 19 of Industrial Disputes (Central) Rules thereafter for couple of days and arguments come to close on 3rd December 1951.

Now the employees case as set out in the detailed statement of claim extending over 25 typed pages briefly summarised is that the Society is one of the leading life Insurance Companies of India and has successfully emerged unscathed from periodic crisis during which other insurance concerns collapsed or were badly mauled and even survived the economic upheaval following the partition of the country. That the Society's premium income and life insurance funds have considerably swelled and the Society was capable of declaring good rates of bonus to the policy holders as well as substantial dividends to the share-holders; but with all success, in which the employees contributed, the salaries given to the clerical staff and the subordinate staff at head office as well as branches are much lower than the Government

scales and that of other offices of even less standing than the Hindusthan Co-operative Insurance Society Ltd. While giving the background of the dispute the Federation alleged *inter alia* that the salary scales and grades were introduced long ago at the head office in the year 1937 and the same were made applicable to branches later on to the exclusion of some old hands. But in the course of the second world war of 1939 the employees felt the pressure of rising prices and made repeated representation to the management for the revision of the salary scales but to no effect. It was in the year 1947 that the employees of the head office failing to secure adequate redress of their grievances organized themselves into a registered Trade Union Association for the first time and formulated a Charter of Demands which was pressed seriously by demonstrating a successful pen down strike in July 1947. Thereupon compromise was negotiated in October 1947 which resulted in the form of an agreement (Annexure C) filed with the claim. It was alleged that this agreement was not implemented in all its details in the case of branches and several clauses of the agreement were violated more especially on the question of consultation with the Employees Union on all matters affecting the employees, Pujah vacation, recess time for tiffin and adjustment of old salaries according to the new scale adopted for the employees of the head office in the case of branches. The distress of the employees at long last found its way through the Federation of Hindusthan Insurance Employees Unions in 1949 and a fresh Charter of Demands was submitted in August 1949. The Bombay branch employees had some personal and individual grievances also and they therefore submitted a revised charter of demands independently on 20th April 1950 (Annexure D). The aforesaid Charter of Demands became the subject of conciliation proceedings but as the management was not responsive the dispute was ultimately referred for adjudication to the Tribunal by Notification No. LR.90(50), dated 27th December 1950 on various points embodied in schedule annexed therewith. The Federation while giving this background of the dispute added to the points (already mentioned in the schedule reproduced above) by the following:

- (1) In the case of branches, the terms of 1947 agreement having not been implemented should be given effect to from 1st January 1948 retrospectively;
- (2) That grade adjustment of branches be made on the same lines as in the head office;
- (3) Specific cases of victimization embodied in a supplementary statement to be given *vide* relating to years 1947, 1948 or 1949 be also adjudicated.

Now the demands of the Federation as envisaged in the issues referred to in the Notification have been amplified in details by the Federation in their statement of claim and to begin with the first one *viz.* 'Revision of scales of pay' it is divided under 10 heads. These main heads relate to:

- (1) Sweepers.
- (2) Durwans, Bearers, Liftmen, Electricians, etc.
- (3) Filing Assistants.
- (4) Assistants.
- (5) Units-in-charge at Head Office or the Senior Assistants at Branches
- (6) Supervisors at H.O. or Heads of Departments at Branches.
- (7) Junior Officers at Head Office.
- (8) Stenographers at Head Office and Branches.
- (9) Paying and Receiving Cashiers at Head Office and the Cashiers at Branches.
- (10) Actuarial Assistants and holders of Government Diploma in Accountancy and Examination of Associates of Chartered Insurance Institute (Life Branch).

The Federation furthermore in regard to other issues *viz.* promotion, Special Allowances, Bonus, Provident Fund, Gratuity, Leave Rules, Insurance of employees at a reduced rate of premium, residential accommodation or house rent allowance, children education allowance, procedure for termination of employment, medical expenses, provision for general amenities and facilities for carrying out Trade Union activities have elaborated the points with detailed notes and specifications under paragraphs 11 to 34 and have filed a supplementary statement also for the redress of 35 cases of victimization as stated above. This is in all the case of Federation.

The Society resisted the claim and explained the position with regard to all the demands of the Federation mentioned above and while replying to the prefatory note given by the Federation in the statement of claim explained their financial position with reference to the provisions of the amended Insurance Act of 1950. The stand taken up by the Society with regard to the claim was two-fold, firstly, that the demands are not warranted by merit as the Society is treating their employees in a much liberal manner and can compare favourably with any other Insurance Company and in some cases with Oriental which figures in the insurance world at a higher level than the Hindusthan Co-operative Insurance Society. Secondly, that even if any one of the demands be found reasonable the Society was not in a financial position to meet the demands and as a matter of fact have already touched the expense ratio laid down under the amended Insurance Act for management expenses and as such the reference on the various issues be answered in the negative. The stand taken explained in second contention became the hot bed of controversy and as observed in the beginning a good deal of time was spent by the Federation in bringing evidence on the record whereby it was sought to prove that the Society was wasting and squandering away money since long and as far back as 1937 and could not say that it was not in a position to meet the demands on account of financial difficulty. This aspect of the question accordingly permeated the whole proceedings and as borne out from some of the notes and orders made in the course of recording evidence on more than one occasion went beyond the limit of relevancy and both sides were repeatedly asked and called upon to confine their evidence to the essential matters in order to expedite the proceedings as required under the Rules and provisions of the Act *vide* order dated 11-9-1951 (W-16) note dated 11-9-1951 (W-16), order dated 12-9-1951 (W-17) and order dated 27-11-1951 (W-2). At any event the evidence is on the record for whatever worth it may be and shall have to be considered on its face value of course having regard to the relevant portions only. Judged in this view of the matter it would be more if not actually necessary to take up this important question *viz.* the capacity of the Society to meet the demands at the outset because it would be more in point to come to a finding as to whether the Society is in a position to meet the demands, in case the same are substantiated by the evidence—oral and documentary—brought on the records.

In the appraisalment of the financial position of the Society the Federation's case is that the business of the Society reached almost a phenomenal figure of Rs. 69,73,23,280/- at the end 1949 and the Society furthermore secured new business in 1950 for Rs. 13,77,55,000/-. The premium income and life insurance fund have also risen to Rs. 3,19,70,924/- and Rs. 14,15,25,385/- respectively in 1949. It was emphasised that even during the war time when some Companies could not give any bonus to their policy holders Hindusthan declared good rates of bonus to the policy-holders. In support of the plea two charts Exhibits F and G duly verified were also brought on the record. In Exhibit F the statistical figures of new business for 1950 are given comparing a large number of Insurance Companies. New business of Hindusthan Insurance for the year 1950 was mentioned Rs. 13.75 crores as compared with Oriental which is given Rs. 20.52 crores and that of New India 13.48 crores. Exhibit G is a business statement month by month from 1947 to 1950 and the total business for the year 1950 has been shown to the extent of Rs. 13,78,53,754/-. It was averred that this Company's capacity to pay is much large than many other Companies and that the emoluments given to the employees fall short of the scales and grades which are allowed by other Companies.

On the other hand it was contended on behalf of the Society that the volume of business transacted by the Society was quite insignificant as late as 1937 when compared to its volume of to-day and as such during the first three decades of its existence the Society was not on its legs and could not pay dividend to the shareholders. The Society moreover had to pass in its career through precarious stages and the progress was slow till late thirties when it could make any benefit of any substantial funds and reserves which otherwise it would have been available to it. After the outbreak of the last war when prices began to rise, the war period again proved an unsettled time. That the Society was now in good prosperous position but that does not mean that the Society is in a position to increase its expenses as sought by the Federation to be made. In this connection it was emphasised that the position of a life Insurance Company *vis-a-vis* other trading companies in so far as their respective scope for making commitments for additional expenditure stands on a quite different footing, inasmuch as Life Insurance differs fundamentally from other business as manufacturing or trading concern which can almost increase the price of the article itself selling but a life insurance company cannot do like that. An Insurance Company may increase its premium rates for future policies but it cannot do it with regard to the policies which have already been issued. It was further stated that a new business only bears a small proportion to total

business already in force and it would take considerable number of years before the effect of increased premiums bears a substantial relation to total premium income. It was next pointed out that a Life Insurance Company again differs from composite Insurance Company as New India is and analogy with composite Insurance Companies would again be misleading. Lastly it was stressed that the question as to what should be just and reasonable expense has now been set at rest by a provision made in the amended Insurance Act and for a Company of the Size of this Society the percentage has been fixed at 15 per cent. of the renewal premium after loading 90 per cent. of the new premium income as new expenses. It was maintained in the light of this statutory provision that the Insurance Companies now find themselves in a difficult situation as they cannot go beyond a certain percentage for management expenses and that a maximum has already been attained in recent years and as such any increase in the grades, scales of pay, Dearness Allowance, etc. or other demands which entail additional expenditure was beyond the spending capacity of the Society. The Society in this connection while relying upon some statutory provisions concluded that in the case of a Life Insurance Company the only course to make an increase in the management expenses was by increasing the premium rates but the same has already been revised and increased twice once in 1941 and again in 1948 and there is no further scope for any more increase in the rate otherwise it would affect the reputation and the whole business of the Society. It was also stressed that even if increase be made, the fixed percentage would come in the way and it would be necessary to increase the premium by Rs. 7 approximately in order to allow the Society to spend Rupee 1 more in management expense. It was maintained that such an increase would result in rates of premium becoming unattractive and would defeat its own end and instead of securing additional business the result would probably be diminution of business with consequent difficulty in meeting requisite expenses. Finally, it was submitted that the expense position does not allow any more increase because it has already touched the limit of 14.75 per cent. as borne out from Exhibit 6 and in case the Society goes beyond 15 per cent. limit it would incur the penalty provided under Section 64 K of the Insurance Act.

Now various statements and charts are brought on the record by both sides. I have perused and studied all but in this respect would refer to two of them. The one Exhibit 17 shows the number of policies and premium income for the year 1950 of four big companies viz. Oriental, New India, Hindusthan and National. From this it can be seen that Hindusthan is second to Oriental with regard to its premium income and the number of policies. The expense ratio of different Companies for 1950 is mentioned in Exhibit 30 this shows that some other companies are spending more although it is a different matter as to whether by doing so they are contravening the statutory provisions of Section 40 of the amended Insurance Act. Accordingly if the financial position of the Company is to be considered as a whole it is very satisfactory and progressively flourishing. Shri Roy arguing on behalf of the Company admits that the Society is a first class Insurance Company and the witnesses of the Society also in their statement have averred that Hindusthan Insurance is a first class Insurance Company and its financial position is quite sound. Mr. R. Cubie the actuary of the Society, in his deposition when referred to his Report on the Ninth Valuation which was prepared by him (Ex. EE) admitted that the increase per annum is sum assured and bonuses is higher than any previous valuation period. Mr. Cubie furthermore in this report while showing the activities of the Society during the last inter valuation period and on the valuation of the business of the Society as on 31st December 1950 has explained the whole financial position and it may profitably be quoted *in extenso* as under:

Ex. EE (Page 3): "The Total Funds of the Society amounted to nearly Rs. 18 Crores and are invested in securities of the highest standing. The percentage in different types of securities under broad headings is as follows:—

Description	Percentage
Government and Approved Securities	58
Land and House Properties	12
Policy Loans	6
Mortgages	8
Stock Exchange Securities	7
Miscellaneous, Cash, etc.	9
Total	100

6. *Rate of Interest.*—The average rate of interest, exclusive of profits from landed properties and other investments, yielded by the assets, whether invested, or uninvested, constituting the Life Assurance Fund for the years covered by the intervaluation period is as follows:

Year	Net Rate per cent
1947 ..	3.34
1948 ..	3.25
1949 ..	3.14
1950 ..	3.08

As has been pointed out above, the above rate of interest does not include profits from landed properties and other investments. So it will appear that the above rate of interest does not represent the true position of the yield on the invested funds of the Society. It has been a regular and long-standing feature of the investment policy of the Society so far to invest a considerable portion of its fund in carefully selected land development projects, and the Society has all long operated its land development schemes with success. The profits arising therefrom, though by their very nature not evenly distributed from year to year, are yet a source of good regular income over succeeding valuation periods. Taking the profits from investment in landed properties and other investments into account, the net return during the period is:

Year	Net Rate per cent.
1947 ..	3.62
1948 ..	3.25
1949 ..	3.62
1950 ..	3.61

The average return on the funds, after taking into account profits from landed properties and other investments over the inter-valuation period, is about 3.5 per cent. Bearing in mind the general downward trend in interest rates which has still persisted through the period under review, the average rate of interest earned on the Society's funds is satisfactory. As will be noted, this is partly due to the Society's active investment policy and in particular the results obtained under its land development projects. Valuation has been made assuming a future rate of interest of 2½ per cent, which is substantially below the actual net rate earned, and it is confidently anticipated that the Society will be able to maintain an interest rate sufficient to keep up a satisfactory margin between the rate of interest earned and the valuation rate assumed."

According to this report the total funds of this Society amount to Rs. 18 crores and are invested in securities of highest standing. Under the heading 'surplus' at page 5 it was also stated that the total amount of profits arising during the intervaluation period including the sum of Rs. 2,93,743 carried forward from the last valuation amounted to Rs. 1,25,79,057. Lastly under the heading 'General Remarks' at the end of the report the Society's actuary states as below:

Ex. EE (page 7).—"The results of the valuation are most satisfactory and place the Society in a much stronger position than it has ever been before. I would particularly emphasise that owing to economic circumstances, quite outside the control of the Society, there has been a general depreciation in gilt-edged and other securities as a result of which a reserve has had to be set up to meet depreciation in investments which, at the end of the valuation period, amounted to Rs. 42½ lacs. If this reserve had not been required, the life-fund and surplus would have been increased by this amount, and as the cost of a bonus of Re. 1 per annum per thousand sum assured is approximately Rs. 12 lacs, a substantial higher bonus could, in such circumstances, have been possible. Government and Approved Securities comprise nearly 60 per cent. of the total funds of the Society, and the large majority of these securities are redeemable at par in due course.

As and when securities generally appreciate, or are repaid at maturity at par, and the investment reserve can thus be released, there will be a substantial amount then available which will help future bonus distributions.

Future profit-earning capacity will naturally depend on future financial and economic conditions, but the position and strength of the Society now is such that there is every likelihood of the present rate of bonus being at least maintained, and probably increased, which is reflected in my recommendation that the interim bonus payable during the next triennium should be the same as the actual rate declared at this valuation. Our policy of strengthening our valuation basis with each succeeding valuation has still been followed, and the bases used in the present valuation result in a general increase in reserves, which has improved the position of the Society, given greater security to the policyholders and considerably strengthened our profit-earning capacity in future. This should be an added inducement to all to insure with the Society, and I am sure the wisdom of our policy will be illustrated by the continued and increasing support we shall have from the insuring public."

Judged in the light of the Society's own evidence it is abundantly clear that so far the financial position of the Society as a whole is concerned, it is quite satisfactory and as such the real question for determination in this connection is as to whether the expense ratio does not allow any more increase in the management expenses. It was argued on behalf of the Society that under the provisions of the Insurance Act management expenses are to be met from the policy-holders money and certain percentage of premium income is to be utilized for management and other expense purposes. The other source of income is investment income. Shri Roy referred to certain sections of Insurance Act and specific reference was made to Sections 40B and 40C as well as to Rule 17D. Expenses of management is defined in explanation clause (b) (at page 51) while revenue account is defined in Section 11 and the Third Schedule (Form B Part II). It was emphasised that in rule 17D which forms the anchor sheet of the whole accounting vis-a-vis the management expenses, clause (5) is to be taken into consideration for the study of the Table and while referring to clause (d) on the table it was stated that the business of the Society far exceeds 10 crores. Accordingly in the case of the Society clause (d) applies and 90 per cent. of the first year's premium and 15 per cent. of the renewal premiums subject to the proviso and the adjustment of minor charges shall be applied. It was exemplified that although it is 90 per cent. yet in actual working it would come to 75 per cent. and the Society has to husband the resources within that limit. And that in case of contravening this limit, the Society is likely to attract the penalty imposed under Section 64K and moreover the reputation of the Company will be affected. Shri Roy concluded that it was in the background of this factor that this question is to be considered. He next stressed that increase in the premium rate has already been made twice and no further increase can be made as it is now the highest. Reliance was placed on Ex. 17 in regard to the strength, number of policies, range of income etc., and on the basis of Ex. 17 it was argued that the premium income of Hindustan is 3 crores 40 lakhs less than Oriental as given in the said exhibit. On the comparison of these figures it was urged that one clerk in Oriental deals with 296 policies while in the case of Hindustan he deals with 287 policies. The argument precisely was that when compared with Oriental, the number of clerks and the other staff should have been lesser than what is maintained by the Society.

Now applying this principle the question no doubt presents some difficulty to whether the Society actually is in such a quandary as it cannot spend any more upon their staff even if they find that some increase in their emoluments is essential. Section 40B(1) and (2) of the amended Insurance Act on which reliance is placed reads as follows:

"Limitation of expenses of management in Life Insurance business.—40B. (1)

Every insurer transacting life insurance business in India shall furnish to the Controller, within such time as may be prescribed, statements in the prescribed form certified by an actuary on the basis of premiums currently used by him in regard to new business in respect of mortality, rate of interest, expenses and bonus loading.

(2) After the 31st day of December 1950, no insurer shall, in respect of life insurance business transacted by him in India, spend as expenses of management in any calendar year an amount in excess of the prescribed limits and in prescribing any such limits regard shall be had

to the size and age of the insurer and the provision generally made for expenses of management in the premium rates of insurers:

Provided that where an insurer has spent as such expenses in any year an amount in excess of the amount permissible under this sub-section, he shall not be deemed to have contravened the provisions of this section, if the excess amount so spent is within such limits as may be fixed in respect of the year by the Controller after consultation with the Executive Committee of the Life Insurance Council constituted under Section 64F, by which the actual expenses incurred may exceed the expenses permissible under this sub-section."

This provision again is to be applied in the light of the Insurance Rules 1939 as modified upto 31st August 1950 and specific reference was made to Rule 17D which deals with the limitation of expenses of management in life insurance business. This may also be reproduced in order to have a full picture of the legal position in this respect:

"17D. *Limitation of expenses of management in life insurance business.*—After the 31st day of December, 1950 no insurer shall, in respect of the life insurance business transacted by him in India, spend as expenses of management in any calendar year an amount exceeding the aggregate sum of—

- (i) five per cent. of all premiums received during the year on policies granting an immediate annuity or a deferred annuity in consideration of a single premium, and five per cent. of all premiums received on other single premium policies during the year;
- (ii) ten per cent. of all first year's premiums and four per cent. of all renewal premiums, received during the year on policies granting deferred annuity in consideration of more than one premium;
- (iii) one-twentieth of one per cent. of the total sum assured by policies on which no further premiums are payable;
- (iv) one per cent. of all annuities paid during the year;
- (v) an amount computed on the basis of the percentages for the time being appropriate to the duration of the insurer's life insurance business specified in the following table, namely,

Duration of insurer's life insurance business	Percentage of premiums (less reinsurance) received during the year	
	of first year's premiums	of renewal premiums
First four years	100	20
Fifth to seventh years	96½	19
Eight to tenth years	93	18
After the tenth year, if the insurer's business in force :		
(a) is less than two crores of rupees	90	18
(b) is less than five crores of rupees but not less than two crores of rupees	90	17
(c) is less than 10 crores of rupees, but not less than 5 crores of rupees	90	16
(d) is not less than 10 crores of rupees	90	15

Provided that the percentages specified in the above table shall in respect of any first year's premium where the maximum premiums paying period under the policy is not throughout life nor more than eleven years, be reduced to a number equal to seven and a half times the number of whole years in that period.

Explanation.—In this rule, "business in force" means, in relation to any expense incurred, the total sum assured, with bonuses, without taking into account reinsurances ceded or accepted, by an insurer in respect of the whole of his life insurance business on the last working day of the year preceding the calendar year in which the expense is incurred."

These provisions were introduced with a certain object and the proceedings of the Parliament which were published in *Insurance World Magazine* December 1949 reveal that the Hon'ble Commerce Minister while sponsoring this bill made some pertinent observations which may well be read with advantage under the heading 'Limited Expenses'

(Pp 508-509—*Insurance World*—December 1949)

Limited Expenses—"Indicating the departures that had been made from the 1946 Bill in the present Bill, Mr Neogy said that the most important difference was in respect of limitation of expenses of insurance companies. The previous Bill attempted to limit the expenses of insurance companies by the provision of definite statutory maximum. There was no dispute as to the necessity for the limitation of expenses, as every Company that overspent in comparison with its business would come to grief inflicting hardship on the policy-holders also. This applied particularly to the companies dealing with life business.

A difference of opinion, however, was expressed on the question whether a rigid maximum of the rate of expenses fixed by law would be suitable or not, it was found that having regard to the wide and varying differences in the insurance companies in respect of expenses, any rigid fixation by law would be difficult to be enforced in practice, unless the rates were so high as might lead to extravagance. Further, there was no scientific basis for fixing the ceiling. The experience of well-managed companies would be a fair guide. The informal committee had, therefore, suggested that in view of practical difficulties an elastic system should be introduced."

The last observation made in paragraph two is significant

Mr R Cubie in his deposition in cross-examination at page 3 of his deposition also stated as follows

"If the business is carried on with reasonable efficiency then mortality and interest would not be subject to very appreciable control for any Society. The real expense ratio is what is laid down under the Act. The expense ratio as prescribed by the law shows that percentage of your premiums which are being spent as expense ratio. In case the prescribed limit is exceeded it would not necessarily put the Company in financial jeopardy. If the expectations as regards the other factors mainly the mortality and interest were realized then the Company would be considered to be in jeopardy if the expense loading under the premium is exceeded in the case of non-profit policies. In the case of with-profit policies it is possible to spend the bonus loading without putting the Company into jeopardy but the same is not advisable"

This witness has also stated further in this respect which reads as follows

"The authority that I can cite in support of my statement that expenses of management can be met only from premium income is covered under the provisions of the Insurance Act, which lays down that the expense of management must be shown as a proportion of the premium income new or renewal. I however do agree that there is nothing in the Act requiring an Insurance Company to keep its premium income separate and to defray the expenses of management from that income because expenses are met from the entire income of an office but they must be at the same time related to the premium income"

Applying the principle enunciated above it appears that the position taken up by the Society is not so inflexible as it is sought to be argued. Some restriction no doubt has been placed in the interest of policy-holders to avoid extravagance and to control the expense but ways can be found to get over the difficulty without circumventing the statutory provisions. Some of the documentary evidence brought on the record also bears witness that the expenses of the staff are high at the Head Office. Exhibit K is a chart of total monthly salary and Dearness Allowance of Head Office and Branches which indicates that the amount spent at the head office monthly excluding Dearness Allowance is Rs 69,184 while on all branches (23 in number) Rs 51,970 are being spent and in the matter of Dearness Allowance the branches are getting Rs 21,010 as against Rs 24,410 in the head office. It is problematic whether in order to improve the lot of the subordinate staff and Assistants in branches who are mainly clamouring for increase, the management should investigate if any cut in expenditure in the head office is possible but this avenue can reasonably be explored. It is also in evidence that the expense ratio for the last year was 14.73 and there is a surplus of 27 which can be utilised by

spending it upon the management expenses in order to improve the lot of the employees if their demand for increase in the scales and grades of pay is substantiated. In this respect Shri Roy when called upon to explain at the close of his arguments by the Tribunal 'that in case the Company's work is prospering the expense ratio was likely to go further and in the coming year, why the Society should not spend more under this item,' submitted that even if the expense ratio goes up in the coming years with the prosperity of the Society and more income is earned on the premium side some margin is still to be kept in order to meet the commission of the Agents which is not being paid according to the rate prescribed under the Act. The position is that some saving is made from the Commission which is being spent on the staff, but the Society apprehends that the Agents might claim more according to their rates. The argument may not be wholly fallacious but has no real sound basis when no demand has been made by the agents. Furthermore when the rate of premium was raised in 1948 the management expenses which are correlated with the premium income should also have been revised by this time.

There is yet another phase of expenditure upon which the Federation not only led considerable evidence but insisted to bring it on the record in all its aspects since 1937. This is on the point of 'wastage' to the effect that Society was spending and is spending on their favourites and was doling money to big officers including their President Shri N. R. Sarkar.

In this respect the evidence adduced by the Federation can be divided into two parts (1) The evidence which relates to some of the existing posts and the incumbents on the ground that reduction can be made in these posts if not actually abolished in order to save more money. Some specific instances were cited viz. of Shri Debendra Bejoy Roy, Senior Assistant of the Society, Shri Ashoke Mitra (alleged to be relation of one of the Directors), Shri S. C. Sarkar, Branch Manager, Bombay, Shri Pobitro Sarkar, Office Superintendent (alleged to be the brother of the President and others vide statement of Shri S. C. Bose witness No. 16). On the strength of this evidence it was urged that some of the posts held by some persons related to directors or other big officers are unnecessary. I have no mind, rather have no jurisdiction to interfere in the management affairs but on the question of capacity to pay which is under discussion I may only remark that some cut and saving if could be made on overhauling or re-examination of personnel of services of the Society on good grounds by the Board of Directors might save some money.

The other evidence relates to previous wastage and in this connection some photographs Exhibits M, N, N-1, O, P and Q and documents Ex. S, T, V. relating to certain advance accounts detailed in the deposition of Shri Chandra Sekhar Bose (Federation's Witness No 16) were produced. While recording this evidence on behalf of the Federation the Society brought into the notice of the Tribunal that the proceedings were being published in some local papers and made an application for treating this evidence as confidential under Rule 18 and Section 21 of the Industrial Disputes Act. It was urged that this evidence was produced in order to injure the reputation of the Society and had no bearing upon the issues. These documents accordingly were treated confidential and kept under seal by order dated 18-9-51 and the Federation was called upon to see that public use be not made of the proceedings during the pendency of the hearing. The Society also applied under Section 33 for permission to discharge from service Shri C. S. Bose who admits to have taken photographs from office record without the permission of the Chief Accountant. This application is still pending and need not be discussed. On the other hand the Convenor of the Defence Council Shri Chitnis made an application that some alterations were being made in the account books of the Society and that the account books and registers be produced in court and impounded. Notice was issued to the Society and they produced the record in court and repudiated the allegation as malicious and false. The applicant thereupon stated that he had only heard that the Society's officers were sitting late on Saturday afternoon and thought that they were making alterations in accounts Books and that these things could not be proved by any evidence. The application was naturally rejected in view of the statement and the account books were returned with the remark that they shall be sent for if necessary at the time of argument. It may be mentioned here incidentally that Mr. Chitnis, the Convenor of Defence Council had made a very serious charge against the Society and without making amends has now made it a grievance for withdrawal (as borne out by his letter dated 27th November 1951 placed on the record) as to why the accounts books of the Society were not impounded.

I have however pointed out in some of the notes made in the course of recording evidence that some of the evidence on the point of wastage was irrelevant as well as unnecessary because the question of past wastage on favouritism does not fall within the scope of this Reference and was thus *ultra vires* of the Tribunal. The Federation President (who is a practising lawyer, but was allowed to represent the Federation in his capacity as President) however insisted on all such questions relating to general wastage to be brought on record and was allowed to lead

evidence in order to appreciate his view point at the time of arguments, earlier to 1947. Now this documentary evidence brought on the record in the form of photographs deals with Society's accounts of the year 1947 and has no bearing on the present financial position of the Society and as such is not in point. It was urged by the Federation that the Society had wasted large amounts and how it could plead that the Society was not capable of meeting the demands. The question however for consideration is as to whether the expenditure incurred long ago admits of any investigation by this Tribunal and whether the alleged wastage of having given bonus to their favourite officers and spent money on their President by erecting a statue or by providing him with costly furniture in his bungalow or some such expenditure can add to the income of the Society now and the Tribunal is competent to go into those past transactions or contracts already audited and taken in Balance Sheets. If the Society has been a waster or some of the properties have been wasted for argument sake, it is for central authority to order investigations in the interest of share-holders or other beneficiaries if the law of the country so permits. It however seems clear to me that it has no bearing on the issues referred to for adjudication and the contention of the Society that this evidence was produced to injure the reputation of the Society is not without force.

The Society has also examined a couple of witnesses and have adduced documentary evidence in refutation of the allegations of wastage *vide* Exs. 20, 21-22 ABC, 23, 24, 25 and 28 relating to the expenditure and some of these furnish an answer to the allegations of wastage. At any event, to my mind this evidence for and against wastage constitutes only one factor in appraising the financial position of the Society. Besides a major part of this is not relevant for the purpose of determining the capacity to pay and in consideration of all the facts and circumstances taken together and on the due appreciation of the legal aspect also I am of the opinion that the Society irrespective of the alleged wastage over which I have no jurisdiction to enter is on good financial footing and within the range of expense-ratio is in a position to bear some more strain on its finances for giving the staff fair living wage. Of course, if on the side of management expenses there is going to be a change for the worse in the finances of the Society, it can get relief by using the machinery of law. I would, therefore, propose to consider the issues in the light of this finding.

This brings me to the disputed points embodied in the Schedule annexed with the Notification which have been treated as issues in the case.

ISSUE NO. (1).—REVISION OF SCALES OF PAY

As stated above in the beginning the Federation under this heading in their statement of claim have dealt with various categories of employees and for the purpose of facility all such categories will be dealt with separately *ad seriatim*.

Sweepers.—According to the prevailing practice they start with Rs. 25 at the head office with an annual increment of Rs. 2/- with no maximum fixed. In branches the starting pay is Rs. 20/- with an annual increment of Rs. 2/- with no maximum fixed for wholetime sweepers. The demand on behalf of the Federation is for Rs. 50—5—125 in 15 years without Efficiency Bar. The difference between the present pay and the demand is obviously high. The Society in reply relied upon an award which was given in the case of Oriental Government Security Life Assurance Company Limited, Bombay by Mr. Justice M. C. Shah as an arbitrator in the year 1948, (Ex. 12) as well as on a chart showing the existing salary scales of the staff (Assistants, Filing Assistants and Subordinate staff) of the Society and various other Insurance Companies (Ex. 11) (1. Oriental Govt. Security Life Assurance Co. Ltd., Bombay, (2) New India Life Assurance Company Ltd., Bombay, (3) Bombay Life Assurance Co. Ltd., Bombay, (4) Western India Life Insurance Co. Ltd., Satara City, (5) National Insurance Co. Ltd., Calcutta (6) Metropolitan Insurance Co. Ltd., Calcutta, (7) National Indian Life Insurance Co. Ltd., Calcutta, (8) Bharat Insurance Co. Ltd., Delhi and United India Life Insurance Co. Ltd., Madras). Now in the award of the Oriental Assurance Co. (Ex. 12) the learned arbitrator while dealing with the case of Sweepers did not interfere and remarked that the Company's scale compares favourably with those of other commercial and industrial concerns and therefore will remain intact i.e. the sweepers will continue to receive their present scale viz. Rs. 30—1—45. The demand of the Union in that case of Oriental in the year 1948 was for Rs. 45—4—105. The learned arbitrator compared the sweepers pay scales and starting salary with the Government Departments in Bombay city and Bombay Municipality. But the finding which was given in 1948 cannot be treated as one in point more especially when Oriental's case has again been referred recently by the Ministry of Labour for adjudication and is still pending. The scales for sweepers in other Companies mentioned in Ex. 11 start with Rs. 30/- and go up to Rs. 45/- with an yearly increment of Rs. 1/-. In some cases sweepers are not mentioned in Ex. 11.

On the other hand in the case of several Companies of Calcutta described below the scales of pay were considered in the year 1949 in West Bengal award dated 3rd September 1949 (published in the Government of India Extraordinary Gazette dated 6th September 1949 pp. 1563-1585). The Tribunal in that Reference dealt with 8 Companies, viz.—

- (1) The Liverpool and London and Globe Insurance Co. Ltd., 26 Dalhousie Sq., Calcutta.
- (2) Royal Insurance Company Ltd., 28/27 Dalhousie Square, Calcutta.
- (3) The South British Insurance Co. Ltd., 3/5 Netaji Subhas Road, Calcutta.
- (4) Caledonian Insurance Company, B-3 Clive Buildings, Calcutta.
- (5) Century Insurance Company Ltd., B-3, Clive Buildings, Calcutta.
- (6) North British and Mercantile Insurance Co., Ltd., 101/1 Netaji Subhas Road, Calcutta.
- (7) Scottish Union and National Insurance Company, 6 Lyons Range, Calcutta.
- (8) Union Insurance Society of Canton Ltd., 8 Netaji Subhas Road, Calcutta.

and dealing with the case of subordinate staff observed as follows:

page 1572: "Our idea is that the total emoluments for a member of the subordinate staff should not be less than Rs. 60/-, out of which at least Rs. 30/- shall be basic salary."

Sweepers were not specifically mentioned but they were treated within the category of subordinate staff. This recent finding of 1949 accordingly is more in point and applicable. The other plea of the Society in the case of sweepers is that they come from outside the State and when go on leave do not return in time and in these circumstances no maximum can be fixed in their case. Some of them moreover were part time sweepers. The plea on the face of it is untenable and it does not appeal to me that a certain category of employees should be left in this precarious position. The demand of the Federation on their behalf viz. Rs. 50—5—125 obviously is a tall claim and in view of the expense ratio discussed above such a high claim cannot be seriously considered when no such scale is existing in any other Company. I am also not adopting the Oriental's scale of Rs. 30—1—45 because it is of 1948 and moreover in Hindusthan Society sweepers are given Rs. 2/- increment every year. I therefore propose the scale of Rs. 30—2—46 both in head office and in branches, on the line of other Calcutta Insurance Companies as said above with the proviso that those who are drawing more shall not however be affected.

Durwans, Bearers, Liftmen, Electricians etc.—The present scale of pay in their case is Rs. 30—2—60—EB—3—75 in the head office and Rs. 25—2—55—EB—3—70 in the branches as evidenced from Exhibit 10. The demand of the Federation is for Rs. 60—5—135 in 15 years without Efficiency Bar. It was argued on behalf of the Society that their scales are much better as compared with Oriental and other Insurance Companies, although Oriental is of older standing. Justice M. C. Shah in his award (Ex. 12) while dealing with this category of employees where they are mentioned as Mukadams, Liftmen, Naiks, Hamals, Sepoys and Watchmen did not interfere and remarked that in his opinion the scale of Rs. 42—2—64 was adequate considering the pay scales of similar employees in other establishments and consequently maintained the scale. In this Society the whole subordinate staff under this category, as said above, is treated alike and is paid in the scale of Rs. 30—2—60—EB—3—75 in the head office and Rs. 25—2—55—EB—3—70 in the branches. The chart Ex. 11 upon which reliance was placed by the Society reveals that in the case of Oriental the members of the lower grade staff under different names are paid as follows:

Head Office		Branches	
	Rs.		Rs.
Havildar	48—3—75	Peon	30—1—45
Mukadam & Naik	42—2—64	Durwans & Watchmen	31—1—47
Watchman	30—2—60	Liftmen	37—1—52
Liftmen	42—2—64	Mukadams & Havildars	40—1—55
Sepoy & Hamals	30—2—60	Sweepers	30—1—35—1—40
Sweepers	30—1—45		

Now the Federation in their demand for these jobs also have bracketed them in the same category and the demand in their case is for Rs. 60—5—135. In view

of the fact that no distinction has been made in various jobs as it exists with Oriental I have no mind to treat them separately. The question however which falls for consideration is as to whether the existing scale of pay viz. Rs. 30—2—60—EB—3—75 warrants any revision. It is admitted that the scales were enforced in 1948 and although the rate of premium was raised in 1948 yet the scale of pay has not been revised in the past three years. The argument that the scale of this Society as borne out from Ex. 11, compares favourably with other Companies does not apply in its entirety because all these jobs of subordinate staff shall have to be considered collectively in purview of the existing scale. The scale with other companies for these persons varies from Rs. 30 to Rs. 48 i.e. in case of Peons it starts with Rs. 30 but in case of Jemadars and Havildars it begins with Rs. 42 and Rs. 48. I would therefore take the mean ratio and would propose Rs. 35—2—65—EB—3—80 for all these employees. The nature of their job is such that there should be no distinction between the Head Office and branches and consequently same scale shall prevail in the case of head office and in branches.

Filing Assistants:—The present scale for Filing Assistants is Rs. 40—3—79—EB—4—127 in the head office while in the branches it is Rs. 35—3—65—EB—4—105 as evidence from Ex. 10. The demand of the Federation in their case is for Rs. 80—8—128—9—200—10—240 in 18 years without Efficiency Bar. The demand is about the double of the present scale. The scales of salary in the case of Filing Assistants in Oriental where they are called Record Grade at present is Rs. 50—3—74—EB—74—3—80—5—120 in the head office and Rs. 45—2—59—3—80—5—90 in branches. It was argued on behalf of the Society that the job of Filing Assistants of Hindusthan corresponds with one of Record Grade of Oriental where the maximum salary is Rs. 120 while in Hindusthan it is Rs. 127. It was also stressed that the other benefits which the Filing Assistants of Hindusthan are getting are denied in Oriental viz. that there is retiring age limit in Oriental while Hindusthan has no retiring age limit. It may be pointed out while dealing with their case that they belong to a category of employees who have to do routine type of work and deal with filing of records and maintain them, but this also requires some knowledge and experience and in course of time these persons may be permitted to become record grade clerks if they are found sufficiently efficient to work as such. Their present scale starting with Rs. 40 in their case however does not compare favourably with Oriental or other Companies although the maximum is higher than the Oriental. I would, therefore, propose to make an increase in the starting salary from Rs. 40 to Rs. 45 without disturbing the maximum in the head office and Rs. 40 starting salary without disturbing the maximum in the branches. The position would be like this. In the Head Office Rs. 45—3—90—EB—4—130. (The increase in the maximum by Rs. 3 becomes necessary due to the adjustment of the increments.) In the branches the position would be as under Rs. 40—3—70—EB—4—110.

The Federation has urged in their demand for the abolition of the efficiency bar on the ground that when any employee is acquitting himself satisfactorily and reaches the top of the grade he should ordinarily be considered to have become quite efficient and there should be no efficiency bar in his way. The contention, however, does not appeal to me because the desirability of the efficiency bar has been recognized by all ends and it prevails in Government services also. The question was posed for discussion before the Islington Commission and when recommending the time scale system, the Commission insisted on the necessity of efficiency bars and some time after the Central Pay Commission did not agree to dispense with the Efficiency bars and opined that it was an indispensable part of the time scale system. The point is moreover covered by various decisions and awards of adjudicators and need not be discussed further. The efficiency bar shall therefore remain as mentioned above in the case of subordinate staff or to be mentioned hereafter in the case of Filing Assistants, Assistants and others. The other dictum which may be made just here at the outset is that (1) no one should be staggered from the present pay if he is getting higher than the grade in the adjustment of the grade formulated and (2) the increment of the year 1951 which has not been given yet (vide statement of Shri Banerjee, Society's Witness No. 2) would follow on the basis of new scales subject of course to any disciplinary action provided under rules or service conditions.

Assistants.—There are three grades of Assistants both in the head office as well as in the branches besides the one called special grade. One starts with Rs. 60—5—100—EB—6—160—EB—6—202 in the head office and Rs. 55—5—100—EB—6—160—EB—6—190 in the branches. The demand of the Federation as evidenced from the statement of claim is for

- (a) Rs. 100—10—180—15—270—20—350 in 18 years without Efficiency Bar (for matriculates and non-graduates).

(b) Rs. 130—12—250—17½—320—20—400 in 18 years without Efficiency Bar (for graduates, and post-graduates).

To begin with (a), the present salary as evidenced from Ex. 11 in this grade which is called Junior Grade in Oriental is Rs. 75—5—105—EB—105—6—135—7—170—EB—170—8—210 in the head office and Rs. 56—4—80—EB—5—115—6—145—EB—7—180 in the Branches. The comparison would show that in the branches the position of Junior grade clerks or Assistants No. 1 is better in Hindusthan as compared with Oriental. They start with Rs. 55 and Rs. 56 respectively, but close with Rs. 190 and Rs. 180 respectively. In the head office of course this category of employees starts with Rs. 75 in Oriental and ends with Rs. 210 while in the case of Hindusthan it starts with Rs. 60 and ends with Rs. 202. The margin is not appreciable and it appears that the position of both is at par. It was argued on behalf of the Society that the lot of the employees of this category in the branches of the Society is better and the Society compares favourably with all other companies in Calcutta. The other distinction which was pointed out on behalf of the Society was that in Hindusthan the Assistants of Grade No. 1 can be directly recruited in the Senior Grade but in the Oriental they cannot be recruited directly in the Senior Grade. The demand of the Federation as given above is for Rs. 100 starting going upto Rs. 350 which is nowhere found in any Company which have been mentioned in the chart (Ex. 11). I however find a snag in the starting salary in the case of Assistants which appears to be low. In the award of Mr. F. Jeejeebhoy given in 1949 between the employees of the Atlas Assurance Company Ltd., and their employers, the learned adjudicator observed pertinently in the introductory remarks that it was not wise to depart from the general conclusions of the Mercantile Award which have been applied to several Insurance Companies in Calcutta and keeping this in view he fixed the starting salary as Rs. 70 in order to keep the basic uniformity and to avoid any conflict in the basic wage structure. In the award given in connection with the eight Insurance Companies of Calcutta published in *Gazette of India Extraordinary* dated 6th September 1949 pages 1563—1585 the starting salary was also fixed at Rs. 70 in Grade C which corresponds with Grade I. The maximum of course in both these awards is much lower but that by itself I do not think should affect the merits of the case so far the starting salary is concerned because efficiency bar comes in and works as a check in going up and one does not in all cases reach the maximum limit. I would therefore make this variation only in the present grade that the starting salary would be Rs. 70 at Head Office and Rs. 60 at Branches respectively and the position would be like this:

Head Office Rs. 70—5—100—EB—6—160—EB—6—202.

Branches.Rs. 60—5—100—EB—6—160—EB—6—190.

The present scale in Grade No. 2 for Assistants is Rs. 72—6—120—EB—8—200—EB—10—270 in the head office and in the branches it is Rs. 66—6—120—EB—8—200—EB—10—250. The demand of the Federation in the case of second grade Assistants for graduates and post-graduates is Rs. 130—12—250—17½—320—20—400 in 18 years without efficiency bar. The position of other companies as detailed in Ex. 11 say in the case of Oriental in the second grade, mentioned as Senior Grade is as follows:

Head Office Rs. 120—8—160—10—220—EB—220—12½—245—15—275.

Branches Rs. 106—6—130—8—138—EB—8—154—9—190—10—200—EB—10—220.

The position of the Senior Grade or Grade II clerks in Oriental as compared with Hindusthan is definitely better. In the Oriental the Grade No. II employees begin with Rs. 120 in the head office and goes upto Rs. 275 and in the branches he begins with Rs. 106 and goes upto Rs. 220. While in Hindusthan the Assistant of Grade No. II begins with Rs. 72 and ends with Rs. 270 and in the branches begins with Rs. 66 and ends with Rs. 250. The argument advanced on behalf of the Society regarding this category of employees was that their grades are more or less similar to those of other companies. It is however significant to note while dealing with this category of employees that Senior Grade or Grade No. II Assistants are invariably graduates or post-graduates. The grade in branches starting with Rs. 66 obviously does not give them a good start. It was contended on behalf of Society that Oriental is an old Company and stands at a much higher level than Hindusthan and their grades should not form a basis for this Society. There is no denying this fact that Oriental's position as found out by other documentary evidence in regard to the finances of the Company is better but the difficulty which comes in the way of recruitment of graduates in commercial concerns hardly makes any difference if the concern can well afford to give more. I think the revision in the grade of

Grade II clerks is merited although I am not prepared to go to the length of Oriental. I would propose the following grade:

For Head Office.....Rs. 80—6—128—EB—8—208—EB—10—278.

For Branches.Rs. 70—6—124—EB—8—204—EB—10—254.

Special grade with the Society is called Grade No. 3 and begins with Rs. 130—10—350 both in head office and in branches. The demand of the Federation in this respect is that these Assistants should be given three additional increments over the salary due to them in the new scale on such appointment and their maximum should automatically be raised to Rs. 410 if they are Matriculates, if they are graduates or post-graduates. It was also demanded that these special grade employees are to be called unit incharge at the head office and in branches they should also be designated as Senior Assistants. So far the latter part of the demand that they should be designated as Senior Assistants, I may at the very outset say that this does not fall within the ambit of the revision of scales of pay and the Tribunal is not competent to go beyond the issues. The special grade in other companies as evidenced from Ex. 11 say in the case of Oriental also goes up to Rs. 350 but the start is Rs. 210 in the head office and Rs. 180 in the branches where they are called Chief Assistants. Shri Roy on behalf of the Society in this connection contended that the difference in the start in the case of this Society and Oriental no doubt is there but it is not appreciable and does not affect the general lot of the employees when they can go upto Rs. 350 without any efficiency bar. It was also urged that special grade is given in special cases and the start can be made from anywhere going upto Rs. 350 and as such the demand of the Federation goes even beyond the scale of Oriental a Company of longer standing than Hindusthan and is not warranted by merits. The one difference however which I see is in the case of graduates and post-graduates. It does not stand to good reason that a matriculate in special grade should go up to Rs. 350 and in the case of graduates and post-graduates they should also stop at Rs. 350. The case of graduates and post-graduates in the special grade deserves consideration and I would propose in their case the highest limit to the extent of Rs. 400 in place of Rs. 350. No change is effected in special grade except the above modification in case of graduates.

This brings me to the demand of increase in the scales of salary of Supervisors at the head office or Heads of Department at branches mentioned in paragraph 5 under the heading Salary Scales, Junior Officers at the head office mentioned in paragraph 6, Actuarial Assistants in paragraph 9(a), Holders of Government Diploma in Accountancy and Examination of Associates of Chartered Insurance Institute (Life Branch) in paragraph 9(b). Now a preliminary objection was taken that these were officers and do not fall within the definition of workman. On facts one of the Federation's own witness Shri Krishna Gopal Goswami (Witness No. 19) in his deposition has stated that in the classification of employees, the following can be treated as officers:

- (1) Chief Officer i.e. Secretary,
- (2) Two Assistant Secretaries,
- (3) Agency Superintendents,
- (4) Investment Superintendents,
- (5) Law Superintendent,
and in Branches
- (6) Branch Manager,
- (7) Assistant Branch Manager and other Junior Officers can be termed as officers.

There is however no definite designation of the Junior Officers. He further deposed that in the master roll the classification is made by the Society and from that it can be gathered as to who are officers, who are Assistants, who are filing Assistants and subordinates. Shri Paresch Chandra Roy (Federation's witness No. 6) in this connection deposed as under:

"I don't remember if any Junior Officer is on the rolls of the membership of the Head Office Association. Similarly, I cannot say if any Junior Officer is a member of the Federation."

The question was posed before justice Shah in Oriental Reference in the year 1948 in regard to some categories of employees and he came to the conclusion that the Cashier and Personal Assistant to the Manager, Superintendents, Junior or Senior Head Clerks were officers and did not fall within the definition of workman and their case was not considered. In the case of Banks I have discussed this question in Delhi Bank Disputes award and a line was drawn for officers where any managerial work starts. In Insurance Companies, Actuarial Assistants, Supervisors, Heads of

Department, Accountants hold a prominent position and actually deal with management affairs. Judged in the light of the definition already given I have no alternative but to reject the claim so far these persons are concerned on the short ground that they do not satisfy the definition of 'workman' and are officers and their case cannot be considered under the Industrial Disputes Act.

The case of stenographers and Paying and Receiving Cashiers mentioned in paragraphs (7) and (8) of the statement of claim, however stands on a different footing. In the case of stenographers the present scale was not given in Exhibit 10 and it was only stated that they are only treated as Grade II Assistants and special Grade Assistants. Applying this test their present pay is:

- (1) Rs. 72—6—120—EB—8—200—EB—10—270 in the head office, and
- (2) Rs. 66—6—120—EB—8—200—EB—10—250 in the branches.

Taking them under Special Grade, their grade would be Rs. 150—10—350 both in head office and in branches. The demand of the Federation in their case is for Rs. 150—15—300—20—400 in 15 years without Efficiency Bar. It was argued on behalf of the Society that Stenographers are treated in the Upper Grade and Special Grades and they are so to say Upper Grade and Special Grade Assistants. In Oriental as revealed from Exhibits 11 and 12, Stenographers are in between Rs. 100—300 scale, and as such their lot in the Society is much better. The Federation's demand in case they are treated in the special grade therefore loses its force. But in Government offices what I see is that stenographers start generally with Rs. 80 and even with Rs. 100. In commercial concerns the nature of work to my mind is such that they should have better start. Special grade moreover generally goes to P.As. and Private Secretaries to higher officers and is not the lot of all stenographers. In the Oriental Stenographers are getting Rs. 100—10—150—EB—15—300. The maximum of the grade however when considered in special grade is higher viz. Rs. 350 as compared with Oriental with starting pay of Rs. 72 in the head office and Rs. 66 in the branches. The starting pay appears to be inadequate. I direct that the scales shall stand and continue with the modification that starting salary will be Rs. 78. It would come as under:

Head Office.....Rs. 78—6—120—EB—8—200—EB—10—270.

Branches.....Rs. 72—6—120—EB—8—200—EB—10—250.

Paying and Receiving Cashiers.—In their case also it was stated by the Society that they are Upper Grade and Special Grade Assistants as mentioned in Ex. 10 and as such their grade would be at par with the Stenographers. The demand of the Federation for them is for Rs. 250—20—310—25—435 in 8 years without Efficiency Bar. The demand as compared with the existing starting pay of Rs. 72 in Grade II and Rs. 150 in Special Grade manifestly is extravagant. No special pleadings were made in the statement of claim or in evidence that their lot was not as it should be excepting the general demand for increase. In the circumstances I do not see that any case has been made out for the revision of their pay scales and the existing one shall stand.

ISSUE NO. (2).—SPECIAL ALLOWANCES FOR CERTAIN CATEGORIES OF EMPLOYEES

The Federation have not specifically touched this point No. 2 embodied in the Schedule in their statement of claim; but what can be gathered on going through the whole statement it appears that they want special allowances for certain categories of employees viz., Acturial Assistants, Holders of Government Diploma in Accountancy and Examination of Associates of Chartered Insurance Institute (Life Branch) mentioned in paragraphs 9(a) and 9(b). This point may also fall under the heading 'Other Allowances' viz., Acting Allowances, Allowances for those working on machines such as typewriters, Ronio, adding machines, adrema, Hollerith, Franking machines, telephone clerks, overtime allowance, suspension allowance, house rent allowance, children's education and maintenance allowance embodied in para 14 of the statement of claim. Now out of these the case of two of these has already been disposed of viz., Acturial Assistants and Holders of Government Diploma in Accountancy and held that these employees do not satisfy the definition of 'workman' and are officers and as such their case could not be considered under the Industrial Disputes Act. House allowance and children's education allowance have been specifically mentioned in issues 8 and 9 and will be dealt with at their proper place. The other allowances mentioned above viz., Acting Allowance, Special Allowance for those working on machines, overtime allowance and suspension allowance will be dealt with separately.

Acting Allowance.—To begin with Acting Allowance, the demand of the Federation is that any Assistant who acts as Senior Assistant at a Branch or an Assistant who works as next in rank to a Supervisor should get an Acting Allowance of Rs. 30 per mensem. Similarly, Senior Assistants at Branches or Assistants working next in rank to Supervisor at Head Office when working in the post of head of a

Department or Supervisor should be given an Acting Allowance at the rate of Rs. 50 per mensem. All Assistants acting in place of Cashier should also be given an acting allowance at the rate of Rs. 50 per mensem. In the case of subordinate staff likewise it has been demanded that persons who act as Havildar or head in the category of such staff in his absence should be given an acting allowance of Rs. 15 per mensem. The Society's reply to this demand was that if they have more than one Assistant in each Section who is competent to work as Section incharge and as such if any unit incharge is absent the second man does not take over his duties. It was argued that generally it is the higher man who takes over the duties of the lower man in his absence and no allowance is given and the Society does not feel any difficulty in this respect. It was further stated that in case any person is sent outside on deputation suitable allowance is given to him. On the appreciation of the respective stand taken by both sides I am of the opinion that normally if any Assistant takes up the work of a higher post in the absence of the higher man he should get some acting allowance but in view of the actual practice prevailing in this Society the demand rather should be that in the absence of any incumbent of a higher post the lower man should be given the opportunity to work in his place and some acting allowance be granted to him. As the position is just the reverse I am unable to adjudicate upon the demand as urged and the stand taken by the Society furnishes a cogent reply to the demand.

Overtime Allowance.—The demand of the Federation in this respect is that an overtime allowance equivalent to a full day's salary with Dearness Allowance should be given for working overtime on weekdays and two days salary including Dearness Allowance for working on Sundays and other holidays. The demand further proceeds that in no event shall an employee be required to work overtime more than two hours on week days and 4 hours on Sundays and the total period of overtime work of any employee should not exceed 180 hours in a year. The reply of the Society to this demand was that according to the present practice employees are allowed half day's salary and Dearness Allowance for two hours work after office hour and full day's salary for four hours work after office hours and 5 hours work on holidays. It was also argued on behalf of the Society that in certain States Shops and Establishment Acts apply regarding overtime allowance and under the Bombay Shops and Establishment Act the total period of work has been fixed at 208 hours in a year. Reference was also made to Ex. 12, the award of Justice M. C. Shah in the case of Oriental Assurance Company wherein the learned Arbitrator referred to Section 32 of the Bombay Shops and Establishment Act under which overtime wages are allowable only if any employee is required to work in excess of the limits of work and by the expression 'limits of work' in the case of persons employed in a commercial establishment, it is 208 hours. In the Oriental case as the limit was not exceeded the claim for overtime was rejected. Applying this principle I see no force in the demand that the total period of overtime work of any employee should not exceed 180 hours in a year. On the point of actual allowance which is being given for overtime work the prevailing system appears to be reasonable but I am not satisfied in the case of Sundays and other holidays when it is stated that full day's salary is allowed for 4 hours work after office hours and 5 hours work on holidays. In the case of holidays the period of work should be rather lesser for the simple reason that the employee was being brought out on a holiday when he was expected to attend to his other duties of life. I would allow the practice to stand with the modification that the employee will be entitled to full day's salary for every three hour's work on Sundays and holidays or part thereof.

Suspension Allowance.—The demand in this connection is that if any employee is suspended from service he should be paid a monthly allowance at the rate of 75 per cent. of his salary and allowances. The Society did not give any direct reply to this demand and only stated that in case the employee is not found guilty after investigation he is allowed to rejoin his duties and in such cases the payment of salary and allowances for the period of suspension is not withheld. The demand actually is that in the course of suspension he should get something as subsistence allowance. This principle has been accepted by adjudicators and in the case of Banks at least one-third of the salary and allowances was allowed by the All India Industrial Tribunal (Bank Disputes). I think the demand is not without merit and I would direct that in case of suspension at least one-third of the salary and allowances should be paid to the suspended employee as subsistence allowance and in case of his rejoining his duties that amount can be deducted at the time of payment of the back salary.

Dearness Allowance.—This item has not been specifically mentioned in the items embodied in the Schedule but demand was made for an increase in the Dearness Allowance under the heading 'other allowances' in the statement of claim.

The claim in this respect as mentioned in paragraph (13) of the Federation's statement of claim is that Dearness Allowance for all categories of employees should be paid on the following basis:—

On the 1st 100 of the basic salary or part thereof ..	90%
„ „ 2nd 100 „ „ „ „ ..	50%
thereof additional ..	
„ „ 3rd 100 „ „ „ „ ..	30%
„ „ 4th 100 „ „ „ „ ..	20%
„ „ 5th 100 „ „ „ „ ..	10%

Minimum Dearness Allowance payable shall be Rs. 75 p.m.

The reply of the Society to this part of the claim was that the payment of Dearness Allowance and the quantum thereof depends on the capacity to pay which is to be decided. It can be stated at the outset that the Dearness Allowance now paid to the employees of the Society is same both at the head office and at the branches. Exhibit 8 is a chart showing the Dearness Allowance and war allowance to head office and branch office staff. The rate given in the said chart is as follows:—

Upto Rs. 75/-	Rs. 35-0-0
From 76/- to 150/-	„ 40-0-0
Rs. 151/- and above	„ 50-0-0

in the case of Assistants. While in the case of Filing Assistants there is a flat rate of Rs. 50 at the head office and Rs. 25 at the branches and in the case of subordinate staff it is Rs. 25 and 20 respectively in head office and branches. The question which falls for consideration is as to whether this distinction which now exists should remain and secondly whether with the revision of pay scales Dearness Allowance also warrants any increase. The plea of the Federation is that the prices are soaring high every day and there is already abnormal rise in the cost of living not only in Calcutta but even in mofussil and all other States where this Society has their branches. Nine witnesses from Patna, Nagpur, Jalpaiguri, Delhi, Gauhati, Bombay, Raipur, Lucknow were examined who gave the details of the prices of essential commodities and claimed that the prices in the mofussil are in no way lower than that of the big cities in these days and in some of the places (in Assam) and (West Bengal) are rather higher than cities. On the other hand the argument advanced by the Society is that they have been paying Dearness Allowance since 1942 and that Hindusthan was one of the concerns who had started Dearness Allowance much earlier but in view of the statutory expense ratio the Society was not capable of having more strain. The fact remains that since 1948 the rate of Dearness Allowance has not been revised and the cost of living as borne out from statistical record has admittedly gone high. Under the Government of India, Ministry of Finance Office Memorandum No. F.9(1)-E II/51, dated 12th June 1951 the rate of Dearness Allowance applicable to all Central Government employees was revised and the existing scale stands as follows:

“A. Non-gazetted officers and married gazetted officers—

Pay	Dearness Allowance
Upto Rs. 50/-	Rs. 40/- per mensem
Rs. 51—100	„ 50/- „
Rs. 101—150	„ 55/- „
Rs. 151—200	„ 60/- „
Rs. 201—250	„ 65/- „
Rs. 251—300	„ 70/- „
Rs. 301—500	„ 75/- „

In Commercial concerns the rates as compared with the Government are higher for the simple reason that the commercial concerns work on profit basis. At any rate the system of Dearness Allowance has been introduced to neutralize the rise in the cost of living and that factor has always been considered in the matter of fixation of Dearness Allowance. It is difficult no doubt to link the Dearness Allowance to the rise and fall of cost of living index number which is again always fluctuating and I do not propose to resort to that method in the case of this Society whose expenses are restricted under the provisions of Insurance Act. But one cannot

blink on the deteriorating condition of the employees who are badly affected by the rise in the cost of living and some increase is necessarily called for. In consideration of all the facts and circumstances and while dealing with workmen only whose emoluments do not go beyond Rs. 500 as basic salary I would allow a flat rate increase of Rs. 5 without disturbing the scale of dearness allowance already existing.

ISSUE NO. (3).—RULES FOR PROMOTION TO HIGHER POSTS

The demand of the Federation under this head is that the Bearers and Filing Assistants shall be given all facilities for promotion to the ranks of Filing Assistants and Assistants respectively; and any vacancy occurring in the Senior Grade should be filled up by promoting the seniormost member of the next lower grade. The demand goes further to the effect that no direct recruitment in officers cadre as a rule be made unless the entrant possesses technical qualification not possessed by the existing staff. The reply of the Society to this demand more or less is of conceding the demand. It was stated in the written statement that the Society had already been following the principle of promoting from the lower to the higher ranks *viz.*, from Bearers to Filing Assistants, from Filing Assistants to Assistants, from Assistants to Supervisor and from Supervisor to Officers. It was also stated *inter alia* that direct recruitment to officer's cadre was seldom made and whenever made it was usually made on the basis of special qualifications which were not possessed by the existing staff. The Society in support of this assertion maintained that in the last year 6 officers were taken at the head office from the existing staff and two from the branches and all of them were promoted from amongst the Assistants. Lastly, it was stated that this principle was also being followed in branches. In view of the position taken up by the Society this issue does not admit of any adjudication and the demand shall be treated to have been accepted.

ISSUE NO. (4).—BONUS

The demand of the Federation regarding Bonus is for the payment of two months total earnings including salary and Dearness Allowance to be paid before the Pujah holidays at the head office and before Dewali holidays at the branches and with a further bonus equivalent to one month's total earnings to be paid in the month of March or April each year. It was further stated that in the case of death of an employee the amount which he was entitled should pass in his heirs as in the case of salary, gratuity, Provident Fund money etc. The Society resisted the demand and submitted that they have all along been paying one month's salary as Pujah bonus to the clerical and subordinate staff of the Society. In view of the present expense-ratio of the Society there was no scope for giving more than one month's salary. It was also argued that payment of bonus is dependent upon the economic working of the Company and in unfavourable circumstances the bonus may have to be stopped. Reliance was placed on the revised Insurance Act under which previous permission of the Central Government is necessary. It was contended that the underlying idea of Section 31A is that bonus could be paid only if the expenses of the Company admit of it. On the strength of this argument it was maintained that the Tribunal has no jurisdiction over the matter because grant of bonus is governed by Section 31A(vii) of the Insurance Act and that one month has been fixed after reference to the Central Government. This Tribunal has no jurisdiction to modify or make any increase in it as demanded by the Federation. Section 31A(1) (vii) reads as follows:

"31A(1) Notwithstanding anything to the contrary contained in the Indian Companies Act, 1913 (VII of 1913), or in the articles of association of the insurer, if a company, or in any contract or agreement no insurer shall after the expiry of one year from the commencement of the Insurance (Amendment) Act 1950—

* * * *

(vii) the payment of bonus in any year on a uniform basis to all salaried employees or any class of them by way of additional remuneration, such bonus, in the case of any employee, not exceeding in amount the equivalent of his salary for a period which, in the opinion of the Central Government, is reasonable having regard to the circumstances of the case."

On going through Ex. 12—the award of Justice M. C. Shah in the case of Oriental I find that this demand was not entertained and the Union had withdrawn the demand. At any rate in the light of the statutory provision, the determination of bonus rests with Central Government and this Tribunal is not competent to adjudicate upon it. The demand of any increase in the present bonus grant accordingly falls on this short legal ground.

Issue No. (5)—PROVIDENT FUND AND GRATUITY

Provident Fund.—The Provident Fund has admittedly been introduced in the Society and is working. The demand of the employees, however, is that—

- (a) All employees of the Society should be given the benefit of the Provident Fund scheme from the commencement of their service;
- (b) The Society's employees who were not given the benefit of the Provident Fund scheme from its commencement should be given the Society's contribution from the commencement of the scheme and the same shall be added to their Provident Fund account.
- (c) The rate of deduction for Provident Fund should be raised to 10 per cent. with equal contribution from the Society with a guaranteed interest of 4 per cent. compound.
- (d) In the case of employees who have joined the service before the introduction of the Provident Fund scheme, the Society's contribution should be credited to their account from the date of their appointment in the same manner as if this scheme was in force at that time with interest addition at 4 per cent. compound;
- (e) All employees who have put in service of 5 years or more shall be entitled to receive Society's contribution to Provident Fund at the above rate of interest.

The Society in the written statement only contented to state this much that there was no scope for any revision in the Provident Fund system. It appears that either they dubbed the demands as extravagant and did not care to give detailed reply or they meant to say that the Tribunal has no jurisdiction on this point as urged in arguments. In the absence of any detailed reply all parts of the demand will be considered on their face value. Ex. 18 is a copy of the Provident Fund Rules which was placed on the record and was relied upon in the course of arguments. It was submitted that there was a Board of Trustees who have not been impleaded as parties and the Tribunal has no jurisdiction over the matter. Reference was made to the finding given in this connection by Justice M. C. Shah in Oriental's case in his award Ex. 12 (at page 449 of the Gazette). The observation at page 449 reads as follows:—

"There is besides a legal difficulty in the way of altering the Rules and Regulations of the Pension and Provident Fund because the Trustees of these Funds and the other beneficiaries thereof are not parties to the present dispute and it will not be competent to me to pass orders in their absence. On the merits, I do not see any real ground for altering the terms and conditions of these Funds, and to do so would be imposing an unnecessary burden on the Company. The demand is rejected."

So far the legal aspect of the question is concerned with profound respect I have not been able to fall in line with the view taken by Justice Shah. The Provident Fund remains in charge of the employer. Some Trustees of course are appointed out of the Directors of the Society in order to ensure the proper maintenance of the Fund and its distribution when occasion arises. In some cases demands have been made on behalf of the Unions to have one of their representatives also in the Board of Trustees which is a different matter; but I do not see how trustees can be considered as independent from the Society or the employer, for which there should have been any necessity of impleading them while determining the demand for Provident Fund. I am conscious that on the appointment of Trustees all property, investment, cash and other dues belonging to or representing the Fund shall be deemed to vest in the Trustees but it does not mean that Trustees are independent of the Society or the employer who takes charge of the amount of the beneficiaries. The accounts of the Fund are kept at the head office of the Company and statements are sent to the Branch office for the monthly contribution or contributions at such branches and the accounts are always audited by the Company's auditors to verify the correctness of the accounts. The Trustees virtually are the representative of the employees and it is the employer who has to account ultimately for the monies. In point of fact the Board of Directors are the final authority even when any dispute arises between Trustees or contributors or their heirs, executors, etc. In regard to contribution as provided in the Rules. Of course in the case of exemption from Income-tax, the order cannot be made at the back of the Commissioner of Income-tax as held in the dispute between Alcock Ashdam and Co. and their workmen (Bombay Government Gazette 16th June 1948). The demand moreover is not for the revocation of the Trust, but for increase in the rate of

deduction and contribution. I would, therefore, repel the objection and the demand shall be considered on its merits

Before entering into the merits of the demands of the Federation on this point it would be better to reproduce the relevant Rule of the Society. This Rule No. (7) reads as follows:

Ex. 18 (7) Every Officer or person on permanent staff of the Society at its Head Office and at its several Branches and every Officer or person appointed on the permanent staff and who is in receipt of a salary not less than Rs. 30 (rupees thirty) per mensem (hereinafter referred to as "a contributor") shall contribute to the Fund during the period of his service at the rate of $6\frac{1}{2}$ per cent. of his monthly salary at the time of payment thereof or at any other rate to be determined by the Board of Directors of the Society from time to time and shall be credited to the Account of the contributor in the books of the Fund and it shall be compulsory for such person during his employment in the Society to continue to remain a contributor to the Fund subject to the rules of the Fund for the time being in force. Every officer or person on permanent staff mentioned above on his admission as contributor to the Fund shall make a declaration in the manner set out in the form in Appendix hereto and file the same with the Trustees.

The Field workers, such as Inspectors and Organisers whose services depend upon the contingency of putting in an adequate out-turn of business the employees of any of the mofussil estates of the Society, the office bearers, durwans, duffries and the like in whatever name or names they may be termed would not be eligible to contribute to the Fund unless the Board of Directors decide otherwise."

In the terms of the Rule every employee of permanent staff drawing not less than Rs. 30 p m is entitled to contribute to the Provident Fund during the period of his service at the rate of $6\frac{1}{2}$ per cent. of his monthly salary at the time of payment thereof. Field workers such as Inspectors and Organisers and the employees of mofussil estates of the Society like durwans, duffries etc., of course are not eligible to contribute to the fund unless the Board of Directors decide otherwise. Now in the demand of the Federation described above there is no special pleading for those who are not eligible and the emphasis is mainly laid on this that the Provident Fund should be deemed to have been introduced much earlier and effect should be given retrospectively with the result that the Society's contribution from the date of the commencement of the service of employees earlier to the introduction of the Provident Fund scheme be credited to their Fund with guaranteed interest of 4 per cent. compound. In other words the demand is that the Society should be called upon to pay to their employees by way of penalty as to why they had not introduced the Provident Fund much earlier. The demand on the face of it is unreasonable and stands rejected. One other item however, viz.—

(c) The rate of deduction for Provident Fund should be raised to 10 per cent. with equal contribution from the Society with a guaranteed interest of 4 per cent. compound,

is susceptible to further consideration. In this respect in the case of factories quite recently the rate of contribution has been placed not exceeding $8\frac{1}{3}$ per cent. of the basic wages and Dearness Allowance by an Ordinance recently promulgated. Factories and industrial plants however stand on a different footing and in the case of Insurance Companies, the other difficulty is of 'expense-ratio'. Furthermore on the examination of the rate of deduction for Provident Fund and contribution by the Employers I find that in almost all banks, the rate is one of $6\frac{1}{2}$ per cent. In the case of Commercial and industrial concerns, excepting Ford Motor Co., Bombay, the rate in Cotton, Jute mills in West Bengal, Engineering concerns in Bombay, it is $6\frac{1}{2}$ per cent. excepting the case of Chemical and Oils Company Bombay where it is $8\frac{1}{2}$ per cent. Similarly in Municipalities, the rate is $6\frac{1}{2}$ per cent. excepting in the case of Bombay Corporation where it is $8\frac{1}{2}$ per cent. All Insurance Companies generally deduct $6\frac{1}{2}$ per cent., at least no instance of higher rate was cited. I therefore see no good cogent reason for any increase in the rate and the demand is negatived.

Gratuity.—The demand of the Federation is that an employee on retirement or on resignation should be paid one month's total earnings for every year of service subject to the minimum of a completed years and that the amount of gratuity should be calculated on the total earnings of the employee i.e., full salary and all allowances. It was further stated that in the case of death gratuity should be paid to the heirs of the deceased employee without any restriction of minimum service and in some special cases when the employee is forced to leave the service due to Tuberculosis,

Paralysis, Cancer etc, i.e., in serious illnesses incapacitating him, the gratuity should be paid at the rate without any restriction as to the minimum service. The period of service and the amount of gratuity was specified in the claim. The position taken up by the Society regarding the gratuity was that as Provident Fund scheme is already at work which started in 1937 there was not much justification for payment of any other benefit such as gratuity except to those whose services counted for a substantial period before 1937. It was further stated that gratuity in lump sum on compassionate grounds is being granted on some special cases depending on the merit of each case. Lastly it was urged that in the present expense position and limitation imposed on 'expense ratio' it is not possible to make any commitment. The Society placed their reliance on the award of Justice M. C. Shah in Oriental's case (Ex. 12) and at the time of argument Shri Roy frankly stated that in the case of Oriental gratuity was allowed and did not seriously argue the point. I have already discussed this point in my award in 'General Assurance Society Ltd'. General Department, Calcutta (published in the Gazette of India Extraordinary dated 3rd February 1951—pp. 138—162) and also in the case of Habib Insurance Company Ltd., Bombay (published in the Gazette of India Extraordinary dated 31st March 1951, pp. 521—531) wherein the whole legal position has been discussed and I have no mind to reiterate the arguments once again. The contingency of the payment of gratuity does not arise every year and I do not think that the plea of expenses comes in rigidly. The Company's financial position is quite sound and it is presumably better than the General Assurance Society Ltd., cited above. I would therefore adopt the same finding given in General Assurance Society case and would direct the Society to allow gratuity on the following scale:

- | | |
|---------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| (1) On the death of employee while in the service of the Society | One month's salary or wages for each year of continuous service subject to a maximum of 15 months' salary or wages be paid to his, heirs or assigns. |
| (2) On retirement from service after completion of 15 years of continuous service. | Fifteen months' salary or wages. |
| (3) On termination of service by the Society for reasons of physical or mental disability to continue further in service. | One month's salary or wages for each completed year of service but not more than 15 (fifteen) months salary or wages to the disabled employee. |

Of course no employee will be entitled to gratuity for the period less than 5 years service. The salary or wages for the purpose of calculating gratuity shall be the average salary or wages exclusive of allowances during the 12 months next previous to death, retirement or termination of service as the case may be. The Society will, however, be at liberty to grant gratuity in excess of the above in its discretion for recognition of long meritorious service.

Issue No. (6).—LEAVE RULES

The Federation in their demand for leave rules to quote their own words have stated as below:

"All employees shall be entitled to leave according to the following rules:

- (a) Privilege leave—One month per annum which an employee should be allowed to avail himself of at any time during the year.
- (b) Casual leave of 21 days per annum.
- (c) Leave shall not be refused to any employee where there is leave due to him except under extraordinary circumstances and these shall be specifically informed to the employee in advance.
- (d) Casual leave shall be allowed to be prefixed or suffixed to holidays.
- (e) Casual leave shall be granted for 10 days at a time if so desired.
- (f) Leave under clause 3 of the leave rules (medical leave with pay) shall be allowed as many number of times as may be necessary.
- (g) If any employee while on privilege leave asks for further leave submitting a medical certificate in support thereof such leave shall be treated as medical leave with pay and it shall not be treated as an extension of Privilege Leave.

- (h) Leave availed of by any employee under Clause 3 of Leave Rules (medical leave with full pay, half-pay or without pay) shall not in any way affect his promotion, bonus or continuity of his service.
- (i) Medical leave on half-pay and without pay shall always be granted whenever an employee is not eligible for medical leave on full pay.
- (j) Quarantine leave shall be granted to an employee if any member of his family suffers from any disease which breaks out or is likely to break out in an epidemic form.
- (k) Medical leave on half-pay or without pay shall invariably be granted to an employee if he suffers from any disease which breaks out or is likely to break out in an epidemic form.
- (l) Each employee shall be allowed to accumulate privilege leave upto a period of six months.
- (m) Whenever any member of the Federation or any of its units shall require leave for attending to some urgent work in connection with some activities of the Federation or the Unit such leave to the extent of 15 days in a year shall be granted to him and shall be treated as special leave.
- (n) There shall be a leave reserve for each department upto one-sixth of the strength of the Department.
- (o) Dearness Allowances and all other allowances shall be paid in full while an employee is on leave of any kind.

On the other hand the Society have filed a copy of the leave rules and maintained that the present leave rules are very liberal and they compare favourably with those obtaining in other establishments. Copies of the Leave Rules (Annexure E) were exhibited [Ex. 19 and 19(A)] and placed on the record. I have compared the leave rules of the Society with the demand of the Federation as well as with Government Leave Rules and find that the rules embodied in Ex. 19 in force in the Society compare favourably even with Government Leave Rules. I however do not see eye to eye with the Society when it makes distinction in the matter of leave rules of subordinate staff (Ex. 19/A). The leave for all employees to my mind should be the same and any distinction between higher and lower class is invidious and likely to provoke discontent. I would therefore direct that this distinction be removed in the case of Ex. 19-A (Leave Rules of Subordinate Staff). And beyond that I do not think, that the leave rules warrant any change. The demand of the Federation in some respects savours of unreasonableness and betrays an anxiety of setting the demands high.

Issue No.—(8).—INSURANCE AT A REDUCED RATE OF PREMIUM

The employees admittedly are insured with the Society at a reduced rate i.e. with a rebate of 10 per cent. in premium. The demand of the Federation however is for 50 per cent. rebate of premium subject to a maximum of Rs. 10,000 and that lower grade employees be given free insurance policies of Rs. 2,000 each payable at the age of 55 of the persons concerned. No instance was cited in evidence that any other Society was giving higher rebate or free insurance policies to their lower grade staff. The claim appears to be a tall one and is devoid of any merit. The same is rejected.

Issue No. (8).—RESIDENTIAL ACCOMMODATION OF HOUSE RENT ALLOWANCE

It was admitted in evidence by the Federation witness Shri Apurba Bhattacharjee (Federation's witness No. 4) that residential accommodation or house rent allowance is not being allowed in any other Insurance Companies. The demand if allowed would mean construction of quarters for the employees or payment of house rent which is not in force in any other Company. The demand accordingly does not bear scrutiny and the same is disallowed.

Issue No. (9)—CHILDREN'S EDUCATION ALLOWANCE

The argument given above in the case of residential accommodation applies in the case of this demand also. No such practice is existing in any other Insurance Company and I am not prepared to make a start with this Society when the expenses are circumscribed by expense-ratio and other statutory provisions.

Issue No (10).—PROCEDURE FOR TERMINATION OF EMPLOYMENT AND FOR TAKING DISCIPLINARY ACTION

The Federation in their statement of claim did not state their case exactly according to the wording of the issue but dealt with it under the heading 'Security of Service'. It was stated that no employee of the Society should be discharged or suspended from service without being given an opportunity to refute the charge. The stringent part of the demand lies in the last paragraph

viz. that in case of dispute the matter should be referred to an arbitrator acceptable to the Federation or the Unit and the Management or to two arbitrators, one to be selected by the Federation or the Unit and the other by the management. On the first part of the demand the Society maintained that Hindusthan has rather built up a reputation in the matter of security of service of their employees and that full investigation is always made when anyone is arraigned for any delinquency. He is duly charge-sheeted and given an opportunity of explanation and to lead his defence. Shri Roy in the course of arguments maintained that until now there was no complaint on this score. He, however, admitted that the procedure for the termination of service was not put in black and white but the same is being followed by convention. Federation also did not ask any more in this part of the demand and there is no need for adjudication excepting that this procedure may well be put in rules or standing orders instead of leaving it to convention. I direct accordingly.

Regarding the second part of the demand the Federation appears to be under the idea that they are working in a partnership which obviously is not the case. The Industrial Disputes Act deals with employment and non-employment and does not provide for any such procedure which is sought to be laid down in the demand. The claim manifestly is extravagant if not wholly unreasonable and the same stands rejected.

Issue No. (11).—MEDICAL AID AND EXPENSES

The complaint of the employees is that the Society has no arrangement for medical aid for their employees and that free medical aid whenever called for be given to them and to their dependents also. In other words the demand is that the Society should make an arrangement for the medical treatment of the employees and their dependents whenever it is asked for. The present position explained by the Society is that persons who fall ill in office premises are always given medical aid on the spot and they can consult medical officers and take their advice for minor ailments free of charge. Apart from that there is no system of medical aid to be given at their houses. It was maintained that the Society has a large number of medical examiners and in many cases the employees can get free medical advice from these medical examiners. Arrangement of free medical aid asked for at all times and for all dependents is again fantastic one which has never been made either in Government offices or in any other commercial concerns. It is a different matter that some of the industrial concerns in their welfare activities have started free dispensaries where there are a large number of workers and there is always a risk of hazardous occupation, in order to look after their health and welfare. In the case of Insurance Companies if any one Company is affluent enough, it may well start a dispensary for their employees or as a charitable institution but when the expenses are restricted under statutory provisions I do not think any direction can be given in this respect with the result that the demand is negated.

Issue No. (12).—PROVISION OF GENERAL FACILITIES *e.g.* LIBRARY AND FACILITIES FOR CARRYING OUT TRADE UNION ACTIVITIES

The complaint of the Federation is that they are not much free in their trade union activities and have not got any room for their office or place to hold meetings and that they should be allowed to have their notice boards at proper place in the office. There is a specific demand for a spacious room for library with proper furniture and fittings for Employees Association at head office and at other units. There is yet another demand regarding time room and for improvement in running the canteen. The Society's representative in this connection explained that owing to shortage of accommodation it was not possible to provide for a separate room but employees are allowed to hold meetings of the Association in the office building after office hours on previous permission. It was stated that they are being allowed a separate notice board for their use and that the Society has always felt concerned to look into the grievances of the employees as far facilities and amenities are concerned. Some evidence was led with regard to the kitchen and the complaint of the Federation as disclosed from the evidence is that the kitchen is at the ground-floor while the canteen arrangement is at the third floor and it causes good deal of inconvenience. Shri Roy while meeting this charge of inconvenience explained on behalf of the Society that the kitchen is at the ground floor and in all reasonableness it should be there because fire is a risk in that and the canteen arrangement cannot be made on the ground floor owing to the fact that all space is occupied by the Cash Department which again is necessarily to be located in the ground floor for the convenience of the public who have to deal constantly with Cash Department. It was next argued that the canteen is on the third floor and is connected with a lift and that the complaint is made

order to bolster up the grievances; otherwise the arrangement is going on satisfactorily. I did not deem it necessary to inspect the building but what I understand from the evidence, I think the canteen arrangement on the third floor and the location of kitchen at the ground floor does not amount to any real grievance. I am, however of the opinion that the employees should have a room for their office and in this connection the plea of the Society as advanced by Shri Roy that accommodation was not available does not appear to be a sound one. The Society admittedly has given some part of their building on rent which I do not mean to say that they should not. Taking into consideration however all the circumstances I think the library room which is stated to be 20'×12' may well be altered with a bigger room from the ground floor accommodation in order to enable the Federation to have more accommodation for library as well as for office purposes. Regarding holding of meetings, it was said the Federation and the Association have been holding such meetings at the premises with good deal of display and ostentation and have no difficulty in obtaining former permission. The demand, however, is for holding meetings without asking for formal permission. This kind of concession, is likely to be abused and the temper of the Federation representatives exhibited in the course of proceedings gives a clue to that apprehension. The prerequisite condition of permission therefore appears to be salutary in the interest of discipline and no interference is called for in this respect.

Working hours.—The demand of the Federation is that office hours should be from 10 A.M. to 5 P.M. with one hour's interval for tiffin on week days except Saturdays and on Saturdays the same should be from 10 A.M. to 1-30 P.M. The present office hours in the Society are from 10 A.M. to 5 P.M. on week days and 10 A.M. to 2 P.M. on Saturdays. It was stated by the Society that no time is allotted for taking tiffin or tea but the practice is that Assistants can take off time for this purpose any time convenient to them, half an hour on an average. The demand was stoutly resisted for one hour's interval.

Working hours in offices have been the subject of some controversy in other concerns also. In some States under the Shops and Establishments Act the total number of working hours is fixed upto 208 hours in a month. On this particular question I have not been able to understand that when privileges are claimed how reduction in working hours consistently can be asked more especially in these days when everyone is expected to do as much as possible. It is sometime argued that shorter working hours bring better results than long hours and a fatigued hand does not put good work. The argument is not without force but it can be met by the grant of periodic recess. The Society's representatives have admitted that there is no fixed time and the employees can take off any time they like. This practice is rather more detrimental and I would direct that half an hour's time for recess between the working hours be fixed to enable everybody to relax or to have their tiffin etc. No further change in working hours is called for.

There are some more demands put under the heading 'General' in the statement of claim:

Temporary Staff.—This demand is to the effect that the temporary and probationary employees should be confirmed on the expiry of three months service and those who have already put in three months service should be confirmed forthwith, and that the confirmation should take effect from the date of joining. The Society in reply averred that in the first year most of the time is taken by the employee in learning the work which is of special nature and confirmation cannot be made from the date of joining. Shri Roy in the course of argument submitted that automatic confirmation is fraught with serious consequences and is not existing in any other concern.

The question of confirmation has been discussed in Bank awards also and the normal period for confirmation in Banks has been fixed as 6 months and not 3 months as urged by the Federation or one year as urged by the Society. I would adhere still to that view that 6 months probationary period is a reasonable period, but confirmation cannot take place automatically and the employer must have some discretion after the expiry of six months either to extend the period or to confirm the employee. I direct accordingly.

Consultation and setting up of Joint Standing Committees.—It was urged on behalf of the Federation that Joint Standing Committees should be set up in all Units consisting of equal number of representatives of the management and the employees and that these Committees should frame their own rules or procedure. The demand is on the lines of Works Committees which are provided under the Factory Act. The Society's reply to this demand was that on administrative matters it is the right of the management to take such action as it considers fit and proper upon due assessment of all relative facts and circumstances and the

representation of the employees would create a situation which might prove more detrimental than beneficial in commercial concerns.

Consultation and mutual discussion is the one basis of collective bargaining and in order to iron out the points of controversy it has always proved conducive in maintaining good relations. It is moreover a valuable forum for co-operation and amity between the employer and the employees which is so badly needed in this transitional period. It is again a truism that suggestions from subordinates more especially when they are adopted by the authorities engender more respect for the higher authority. I am accordingly in favour of this demand of consultation but the demand as formulated by the Federation goes beyond the legitimate limit of consultation when it asks for a Standing Committee consisting of equal number of representatives of management and the employees. In commercial concerns this kind of Working Committee is likely to sap the management control so far administration is concerned. Of course I am of the considered opinion that so far the grievances of the employees are concerned, a sort of Advisory Committee is necessary for better understanding and smooth working. I would therefore propose that an Advisory Committee of the employees be set up which should approach the management whenever an occasion demands to give expression to the grievances of the employees and in other general matters pertaining to the welfare of the employees for which a workable procedure can be adopted by the management.

With the above, the points or issues embodied in the Schedule annexed with the Notification come to close and I would take up now the additional points urged by the Federation as stated in the beginning. These for the purpose of facility may be detailed here once again and stand as follows:

- (a) In the case of branches the terms of 1947 Agreement having not been implemented should be given effect to from 1st January, 1948 retrospectively;
- (b) The Grade and scale of pay in Branches may be made at par on the same lines as in head office;
- (c) Specific cases of alleged victimization embodied in the supplementary claim branch-wise.

The contention of the Federation is that the terms of Agreement of 1947 were applied to head office staff only and the benefits of the agreement were not extended to branches. The refusal of the management to consider the case of the branches in agreement resulted in serious and unjust discrepancies and the management also violated some clauses of the agreement particularly in the matter of consultation with the Employees Union on all matters affecting the employees, and principle of adjustment of old salaries in the branches. In paragraph 16 of the statement of claim demand was made to give retrospective effect from 1st January 1948 to the revised scales of salaries, allowances, bonus, etc. mentioned in the charter of demands. The plea advanced for taking up this additional point was that the list given in the Schedule was not exhaustive as borne out by the note to that effect. In this respect some correspondence between the Federation and the Ministry after the promulgation of the Notification in the Gazette was also brought on the record and on the perusal of that I find that it was pressed by Shri S. N. Sharma, Vice President, Federation of Hindusthan Insurance Employees Union, Lucknow, that the grade adjustment of branches be made on the same lines as in the head office and the benefits of the terms of agreement of 1947 be also extended to the staff of the branches retrospectively. A copy of the letter No. LR-90(50), dated 30th January 1951 from the Under Secretary to the Government of India, Ministry of Labour, New Delhi to the said Vice President of the Federation of Hindusthan Insurance Employees Unions, was also received by this office wherein it was stated that the question of giving retrospective effect could be pressed before the adjudicator and that the list of items specified in the Schedule was not exhaustive. In the circumstances the Government of India did not consider that any amendment in the Ministry's Order No. LR-90 (50), dated 27th December 1950 was necessary. In the light of this correspondence this point can be divided into two parts as described above and both will be considered simultaneously.

- (1) The implementation of the Agreement of 1947 in the case of branches;
and
- (2) That the adjustment of grades at the head office and the branches be made at par.

In regard to the part (1) the Agreement (Ex. A) opens with the following words:

“ Ex. A “At a joint meeting of representatives of the Management of the HINDUSTHAN CO-OPERATIVE INSURANCE SOCIETY, LTD., and of the HINDUSTHAN INSURANCE EMPLOYEES’ ASSOCIATION all points of dispute between the Management and the staff were amicably settled and the following agreed decisions were arrived at:”

* * * *

Paragraph 10 of this Agreement reads as follows:

“10. *Staff of Branches and Sub-Offices.*—All the above decisions regarding changes in respect of grades, salaries, allowances, etc., would be applicable to the Head Office staff only except that usual Puja Bonus of a month's salary and the special bonus of another month's salary proposed to be paid after the Government of India's approval to the Valuation Report has been obtained, will apply to all employees of the Society at the Head Office and Branches and Sub-Offices in India and Pakistan. The Management are of the definite opinion that the H. O. staff and the staff at the Branches and other offices of the Society should be treated differently in such matters in view of difference in local conditions, in the status and volume of business of each individual office and in the nature of work done by the H. O. staff and by staffs elsewhere. The representatives of the Association, however, state that if, when the question comes up in 1948, employees of the Branches and sub-offices of the Society can put forward any valid considerations regarding their respective cases on this subject, the Association would reserve to itself freedom to press cases of such employees of Branches and Sub-offices.”

The only proviso in the paragraph quoted above is that Association employees of Branches and Sub-offices could put forward for valid considerations on the subject regarding their respective cases. Now the demand is for general implementation and this obviously runs counter to the terms of the agreement arrived at. Implementation from 1st January 1948 retrospectively manifestly would amount to nullify the Agreement itself and it cannot be argued by any stretch of reasonableness that the branches were to take the benefit with regard to the increase in the scale of pay from 1st January 1948 according to the terms of agreement, nor this question forms the subject of direct adjudication within the ambit of the Reference. The representative of the Society furthermore contended that the jurisdiction of the Tribunal was confined within the four corners of points referred to and that the Tribunal was not competent to go beyond that if any other demand is made beyond the scope of the Reference. Reliance was placed on the provisions of Sections 7, 10 and 12 (4) of the Industrial Disputes Act and it was emphasised that whatever was submitted by the Conciliation Officer or Regional Labour Commissioner upon which the Reference was ultimately made shall form the basis of the dispute before the Tribunal. Reference was made to the award of Justice M. C. Shah in the case of Oriental and in particular to the observations at page 428 of the gazette (Ex. 12) wherein the learned Arbitrator observed that he had taken seizin of other points on receipt of another order from the Government of Bombay and not on his own accord. It was stressed on behalf of the Society that the note at the close of the Schedule viz. ‘that the list is not exhaustive’ does not convey that any point can be taken cognizance of by the Adjudicator of his own accord but it rests with the Government of India to make any addition if necessary in the points already referred to. Reliance was also placed on the book ‘Industrial Negotiation and Arbitration’ by Mr. M. Turner-Samuels and the commentary under the heading ‘Procedure and Practice’ (at page 269) wherein it is stated that it is essential to note that there is no direct approach to Industrial Court. The resort thereto must be through the Minister of Labour except on questions of interpretation. It is furthermore important that once the terms of reference are settled and the case remitted to the Court they could only be amended or varied by consent of the parties.’ Be that as it may, even if I take it up in the light of the letter of the Under Secretary to the Government of India referred to above, I think I am unable to persuade myself to give any relief retrospectively on the basis of an agreement which was arrived at between parties in 1947. To my mind it would be doing violence to the bilateral nature of the Agreement contrary to the express terms ‘that Agreement applied to the members of the Head Office staff and effect was not to be given to the branches excepting that any particular case was to be considered on the recommendation of the Association.’

In regard to the second point that the grades and scales of the head office and that of the branches be brought on the same footing, the demand is equally untenable inasmuch as such practice is nowhere extant. Some evidence was also let on this point and it was sought on behalf of the Union that the work of the

Assistants at branches was equally responsible and important as that of the head office. In cross-examination the Federation witness however admitted that the spade work is done at the branches but the supervisory work and finishing touches relating to policy, adjustment and other important matters are done at the head office. The plea of uniformity of grades in the head office and the branches in an omnibus form does not appear to be practicable also because some of the branches are or less may be in a position of sub-office and the salaries moreover in the fussli and in big cities or in the head office at Calcutta even on the basis of cost of living cannot be at par. The educational and academic qualifications also might vary with persons working in the head office and that of the branches. The main plea in this respect on behalf of the Federation is that Assistants at head office as well as at the branches do the same type of work but it is forgotten that the control and administration is vested in the head office which alone decides as to whether proposals sent by the branches are to be accepted and what expenditure is sanctioned. This is correct that the work with regard to the policies is inter-connected as it is necessary in business concerns but the control and administration admittedly vest in the head office which is more important and of responsible nature. For all these reasons I am of the opinion that the distinction which exists in Government offices and other commercial concerns also cannot be removed in this Society. No instance in evidence was cited that this difference has been removed in other commercial concerns. The demand made is devoid of any merit and is repelled.

The third additional point relates to the specific cases of victimization of several employees embodied in a supplementary statement branchwise. This point was neither referred to in the correspondence of the Vice-President of the Federation with the Ministry after the Notification was promulgated nor was taken earlier in the negotiations which resulted in the points referred to by the Government of India in the Ministry of Labour. The Federation however on issue of notice took up the cases of a large number of employees in which cause of action arose even before the Agreement of 1947. The cases of victimization are always treated important and if any demand had been made with regard to these that should have been specifically brought under negotiation before the Regional Labour Commissioner or should have formed a part of the specific issues or points embodied in the Schedule annexed with the Notification. At any rate as the cause of action arose much earlier and furthermore there was no point of time from which the cases should have been taken, the Federation representative was called upon to argue as to whether this Tribunal was competent to take up these cases. He asked for some time to study the legal aspect and to inform on the next hearing, as borne out from the Diary order of 13th August 1951. Nothing was heard subsequently and the Federation closed evidence on 18th September 1951 and these cases were virtually not pressed. I have all the same carefully gone into the supplementary statement regarding the alleged victimization cases as set out branchwise and would take up *ad serialatum*.

PATNA

- PATNA (1) Shri Sachidanand Prosad: claims for usual increment for the years 1948 and 1949 which was refused to him.
- (2) Shri Dasrath Prosad Verma: He was also refused increment on the ground of disobedience by order dated 22nd December 1942.
- (3) Shri Basudeb Neogi: Increment of Rs. 5 was cancelled in his case and the relief claimed for is for increment from 1st January 1947 onward.
- (4) Shri Bhimsi Ram, Peon: Asks for higher start with effect from 3rd January 1943 and restoration of cycle allowance from January 1942.
- (5) Shri Nandkishore Singh: Wants confirmation in the post of Filing Assistant and payment of allowances.
- (6) Shri Satyanarayan Ram: Asks for increment for the year 1945 at a flat rate of Rs. 20 from 1947.
- (7) Shri Bal Krishna Prasad. Claims grade I salary with adjustment from 1947.
- (8) Shri Sukhdeo Prasad Verma: Asks for leave with pay for 10 days in the year 1948 which was due to him in the year 1948.
- (9) Shri Sukhamay Singh: Wants increment for the years 1944-45.
- (10) Shri Apurba Chandra Niyogee: Claims grant of increment for the years 1946 and 1947.

BOMBAY

- (1) Shri A. Kulkarni: Wants gratuity equivalent to 15 months salary on his resignation from service.
- (2) Shri R. Y. Indulkar: Wants cancellation of the order of forced retirement.
- (3) Shri Parashuram Tukaram: Wants promotion to Filing Assistant with retrospective effect for 3 years.
- (4) Shri A. N. Rajpurkar: Wants gratuity for 30 months salary and allowances on forced retirement.
- (5) Shri S. K. Bose: Wants 14 months salary and allowances at the rate last drawn by him.
- (6) Shri S. V. Vaidya: Wants Rs. 500 as compensation for failure to grant him increment.
- (7) Shri A. H. Nank: Wants Rs. 200 as compensation for failure to grant increment.
- (8) Shri K. A. Chitnis: Wants recognition of his past services and adequate addition to his Provident Fund as well as adequate salary and grade in keeping with the quality of work as well as compensation for the period from 1941 to 1951 etc.

BANARAS

Shri Kalipada Mukherjee: Wants restoration of the cut in salary with effect from 23rd March 1950.

RAIPUR

Shri R. S. P. Verma: Wants on leave on domestic business from 20th April 1950 to 30th April 1950 which was granted; but he did not turn up after the leave period and was dismissed. He wants reinstatement in service from 1st January 1950.

HEAD OFFICE

- (1) Sm. Aruna Devi: Wants gratuity equivalent to 16 months salary of her deceased husband.
- (2) Nine Assistants, viz.—

<ol style="list-style-type: none"> (1) Shri Sushil Ranjan Guha (2) Shri Sudhir Chandra Bhaduri (3) Shri Indu Bhusan Bhattacharjee (4) Shri Bibhuti Bhusan Ray (5) Shri Kali Das Ghosal (6) Shri Debabrata Brahma (7) Shri Durgapada Chakraborty (8) Shri Umpada Ray (9) Shri Nanil Gopal Saha 	}	Want increment retrospectively from 1-1-1948.
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---	-----------------------------------------------
- (3) Shri Dinendra Nath Lahiri: Claims to be placed in the clerical grade, from 1947 with retrospective effect.
- (4) Shri Aniruddha Bose: Wants reinstatement in service with effect from 13th January 1950. He was discharged from service on the charge of tampering and erasing an original record as well as another charge of making posting in the Commission Ledger which was entrusted to different persons.
- (5) Nine persons mentioned in the claim, viz.—
 - (1) Shri Debesh Chandra Chakraborty
 - (2) Shri Sailendra Bhusan Bhattacharjee
 - (3) Shri Devaprasad Sanyal
 - (4) Shri Prithwiswar Guha Roy
 - (5) Shri Sudhir Chandra Ghosh
 - (6) Shri Debabrata Moltra
 - (7) Shri Sudhir Kumar Bhattacharjee

- (8) Shri Santosh Kumar Neogi
(9) Shri Arun Kumar Roy

were transferred from Jalpaiguri Office to Head Office in the year 1948. They want increment for Head Office duty in addition to the increment given to them.

- (6) Shri Amalesh Majumdar: Wants reinstatement in service with retrospective effect from 3rd October 1949. He was sent up by the police for committing offence and he is still an under trial prisoner and has been released on bail.

The above summary of the reliefs claimed would show that excepting the cases of 1950 in which reinstatement is asked for, all other cases relate to either withholding of increment, grade promotion etc. retrospectively and the cause of action of majority of them rose before 1947 i.e. in 1942-43-44-45 and in some cases in 1947 and 1948. In the Bank Reference a specific date viz. 13th June 1949 was mentioned. For cases of victimization and similarly in the case 'General Assurance Society (Reference No 166 of 1950)' decided by this Tribunal specific cases of victimization were mentioned in the Schedules for adjudication. In the absence of any point of time given by the Ministry in this case it seems clear to me that these cases were not pressed before the Regional Labour Commissioner or in the Ministry and it is an after-thought to rake up all sort of individual grievances since 1942 onward. No evidence was led and as pointed out above that the Federation representative failed to satisfy the Tribunal on the point of jurisdiction although the proceedings continued, for several months after 13th August 1951. It can be safely presumed that he realized the position that in this vague general manner the Tribunal could not take seisin of old cases or to give effect to them retrospectively. I have therefore no hesitation in coming to the conclusion that I have no jurisdiction on these cases embodied in the supplementary statement. Awarded accordingly.

Now, therefore, this Tribunal makes its award in terms aforesaid, this the 14th day of December 1951.

CALCUTTA,

14th December, 1951.

K. S. CAMPBELL-PURI, CHAIRMAN,
Central Government Industrial Tribunal, Calcutta.

[No. LR. 90 (50).]

N. C. KUPPUSWAMI, Under Secy.

